2063. By Mr. KNUTSON: Petition of Ronald Hammett, of Staples, Minn., and others, protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

2064. Also, petition of Mrs. C. Jacobson, of Hewitt, Minn., and others, protesting against compulsory Sunday observance; to the Committee on the District of Columbia.

2065. By Mr. MAGRADY: Petition of sundry citizens of Sullivan County, Pa., protesting against the passage of House bill 7179; to the Committee on the District of Columbia.

2066. By Mr. MORROW: Petition of Baptist Woman's Missionary Society, of Chamberino, N. Mex., Mrs. E. M. Mahill, president; Mrs. S. A. Donaldson, secretary, protesting against any modification of the prohibition act; to the Committee on the Judiciary.

2067. By Mr. O'CONNELL of New York: Petition of W. W. Davies, of Louisville, Ky., appealing for consideration of the claims against Germany for the distressed victims of the *Lusitania* disaster; to the Committee on Claims.

2068. By Mr. SWING: Petition of certain residents of Arlington, Calif., protesting against the passage of House bill 7179 and similar bills for the compulsory observance of Sunday in the District of Columbia; to the Committee on the District of Columbia.

2069. By Mr. KEARNS: Petition of the Presbytery of Portsmouth, Ohio, regarding House Joint Resolution 159; to the Committee on the Judiciary.

SENATE

THURSDAY, *May 6, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Lord, our God and Father, we rejoice before Thee in the presence of a morning so bright and hopeful. We turn toward the duties of the day with a consciousness that we can fulfill the high part committed unto us as we seek wisdom from Thee. Help us in our deliberations, guide our thoughts, and so glorify Thyself in and through us that when the day closes we shall have the satisfaction of duty well done. We ask in Jesus' name. Amen.

The legislative clerk proceeded to read the Journal of the proceedings of the legislative day of Monday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1786. An act to equalize the pay of retired officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service;

S. 2298. An act to amend section 3 of the act approved September 14, 1922 (ch. 307, 42 Stat. L., pt. 1, pp. 840 to 841);

S. 2733. An act for the relief of the State of North Carolina; and

S. 3037. An act to provide retirement for the Nurse Corps of the Army and Navy.

The message also announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 1482. An act to authorize the Secretary of War to grant easements in and upon public military reservations and other lands under his control; and

S. 1484. An act to amend section 1, act of March 4, 1909 (sundry civil act), so as to make the Chief of Finance of the Army a member of the Board of Commissioners of the United States Soldiers' Home.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4547. An act to establish a department of economics, government, and history at the United States Military Academy, at West Point, N. Y., and to amend chapter 174 of the act of Congress of April 19, 1910, entitled "An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1911, and for other purposes";

H. R. 5223. An act to authorize disbursing officers of the Army, Navy, and Marine Corps to designate deputies;

H. R. 8592. An act to further amend section 125 of the national defense act of June 3, 1916, as amended;

H. R. 9178. An act to amend section 12 of the act approved June 10, 1922, so as to authorize payment of actual expenses for travel under orders in Alaska;

H. R. 9218. An act to authorize the Secretary of War to exchange deteriorated and unserviceable ammunition and components, and for other purposes;

H. R. 10504. An act to amend the act approved June 4, 1897, by authorizing an increase in the cost of lands to be embraced in the Shiloh National Military Park, Pittsburg Landing, Tenn.;

H. R. 10827. An act to provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes; and

H. R. 11511. An act to amend in certain particulars the national defense act of June 3, 1916, as amended, and for other purposes.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	La Follette	Schall
Bayard	Fletcher	Lenroot	Sheppard
Bingham	Frazier	McKellar	Shipstead
Blease	George	McLean	Shortridge
Borah	Gerry	McMaster	Simmons
Bratton	Gillett	McNary	Smith
Broussard	Glass	Mayfield	Smoot
Bruce	Goff	Means	Stanfield
Butler	Gooding	Metcalf	Steck
Cameron	Greene	Moses	Stephens
Caraway	Hale	Neely	Swanson
Copeland	Harris	Norbeck	Trammell
Couzens	Harrison	Norris	Tyson
Cummins	Heflin	Nye	Wadsworth
Curtis	Howell	Oddie	Walsh
Dale	Johnson	Overman	Watson
Deneen	Jones, N. Mex.	Phipps	Wheeler
Dill	Jones, Wash.	Ransdell	Williams
Edge	Kendrick	Reed, Mo.	Willis
Ernst	Keyes	Reed, Pa.	
Ferris	King	Sackett	

Mr. CURTIS. I desire to announce the absence of my colleague [Mr. CAPPER] on account of illness in his family. I will let this announcement stand for the day.

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present.

CLAIMS OF WALTER B. AVERY AND FRED S. GICHNER (S. DOC. NO. 107)

The VICE PRESIDENT laid before the Senate a communication from the Acting Secretary of Commerce, recommending the passage of legislation for the settlement of the claims of Walter B. Avery and Fred S. Gichner for labor, materials, machinery, etc., used in repairs and alterations to the Butler Building, occupied by the Coast and Geodetic Survey in the city of Washington, D. C., which was referred to the Committee on Claims and ordered to be printed.

PETITION—FARM RELIEF

Mr. GOODING. I ask unanimous consent to have printed in the RECORD and referred to the Committee on Agriculture and Forestry a telegram from Grangeville, Idaho, indorsing the so-called Haugen farm bill.

There being no objection, the telegram was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

GRANGEVILLE, IDAHO, *May 4, 1926.*

FRANK R. GOODING,
United States Senate, Washington, D. C.:

Sentiment in this section unanimous for the Haugen farm bill and urgently request your support.

M. B. GEARY,
President Commercial Club.
ALEXANDER FREIDENRICH CO.
BANK OF CAMAS PRAIRIE.
M. L. AYRES, *Farmer.*
FIRST NATIONAL BANK.
FARMERS' UNION WAREHOUSE CO.
EIMERS GRAHAM CO.

REPORTS OF COMMITTEES

Mr. MEANS (for Mr. CAPPER), from the Committee on Claims, to which was referred the bill (S. 2524) for the relief of John H. Rhinelander, reported it without amendment and submitted a report (No. 763).

Mr. MEANS, from the same committee, to which was referred the bill (H. R. 2237) for the relief of Leslie Warnick Brennan, reported it without amendment and submitted a report (No. 764) thereon.

Mr. HARRELD, from the Committee on Indian Affairs, to which was referred the bill (S. 3692) authorizing an appropriation for recopying, rebinding, and otherwise preserving valuable old records of office of Indian agency at Muskogee, Okla.,

reported it with amendments and submitted a report (No. 765) thereon.

Mr. ODDIE, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 4132) to amend section 1 of the act of June 7, 1924, entitled "An act for the relief of settlers and town-site occupants of certain lands in the Pyramid Lake Indian Reservation, in Nevada, and for other purposes," reported it without amendment.

AMENDMENT OF INTERSTATE COMMERCE ACT

Mr. MAYFIELD. Mr. President, I ask unanimous consent for the present consideration of the bill (S. 3889) to amend the interstate commerce act, as amended, in respect of tolls over certain interstate bridges. I think the bill can be disposed of in a moment.

Mr. CURTIS. Mr. President, I hope the Senator will not press the request. Let us have the regular order until morning business is concluded. Then we shall have almost two hours for the calendar this morning.

Mr. MAYFIELD. Very well; I withdraw the request.

AMENDMENT OF REVENUE ACT OF 1926

Mr. SMOOT. Mr. President, from the Committee on Finance I report back favorably without amendment the bill (H. R. 10501) to repeal section 806 of the revenue act of 1926. I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah?

Mr. CURTIS. Mr. President, I do not like to object, but I objected to a similar request submitted by the Senator from Texas [Mr. MAYFIELD], and I think all Senators should be treated alike.

Mr. SMOOT. I am just reporting the bill, I will say to the Senator from Kansas.

Mr. CURTIS. Very well; I withdraw my objection.

Mr. COUZENS. What does the repeal mean?

Mr. SMOOT. The bill provides for the repeal of section 806 of the revenue act. We repealed all stamp taxes in that section. The bill simply repeals that section of the law of 1926 and will not require the Post Office Department to carry such stamps for the future.

Mr. FLETCHER. I understand it is a House bill reported favorably and that there is no objection to it on the part of the committee.

Mr. SMOOT. That is correct.

There being no objection, the bill was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That section 806 of the revenue act of 1926 be, and is hereby, repealed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RETURN OF DOMESTIC CATTLE FROM MEXICO

Mr. SMOOT. Mr. President, from the Committee on Finance I report back favorably without amendment the joint resolution (H. J. Res. 148) extending the time during which cattle which have crossed the boundary line into foreign countries may be returned duty free. I ask unanimous consent for the immediate consideration of the joint resolution. It is an emergency measure. I will state the reason why I am asking unanimous consent for its consideration; and if there is any objection, well and good. It is to allow the return, without paying duty, of cattle that were shipped over to Mexico. Mr. Meyer, of the Finance Corporation, urged me only yesterday to report the joint resolution out of the committee and get it passed, because the Government itself has a lot of cattle over in Mexico that ought to be returned to the United States.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah?

Mr. SIMMONS. Mr. President, what is the parliamentary situation?

The VICE PRESIDENT. Reports of committees are in order. The Senator from Utah has reported a joint resolution from the Committee on Finance, and he asks unanimous consent for its present consideration.

Mr. SIMMONS. I object. I wish to say to the Senator that if that matter has been before the committee I know nothing about it.

Mr. SMOOT. The Senator is mistaken. The committee authorized me a month and a half ago to report it out. The Senator was there. Then we were told that the House had to pass the measure first, and I called the attention of Senators to it, and so did other members of the Finance Committee. Our Government has security on cattle in Mexico and wants them brought back to the United States.

Mr. SIMMONS. I know all about the joint resolution; and while the committee may have taken some action about it when I was not present, I know that when the matter was called to my attention the Senator was about to report it out of the committee, or it may have been just after the committee adjourned, I said to him: "Hold up that bill, because I want to consider it further."

Mr. SMOOT. But this is a House joint resolution.

Mr. SIMMONS. I know it is a House joint resolution, and it is the measure that was referred to our committee that I asked the Senator to hold up. Since I asked him to hold it up and he did hold it up, the committee surely has taken no action about it, because I think I have been present at every committee meeting since.

Mr. SMOOT. The committee took action this morning.

Mr. SIMMONS. I did not know there was any committee meeting this morning.

Mr. SMOOT. Notice of the meeting was certainly given, and was further telephoned to the Senator's office this morning, and the committee waited for 10 minutes to await the Senator's arrival. My secretary telephoned the Senator's office this morning and, as I said, the committee waited 10 minutes for him to come.

Mr. SIMMONS. I state positively that I had no notice of the meeting. The Senator said the other day that he expected to have a meeting.

Mr. MOSES. Regular order!

Mr. SIMMONS. I object to the immediate consideration of the joint resolution, because I shall probably want to offer some amendments to it.

The VICE PRESIDENT. The joint resolution will be placed on the calendar.

CONVERSION OF TERM INSURANCE OF WORLD WAR VETERANS

Mr. REED of Pennsylvania. From the Committee on Finance I report back favorably with amendments the bill (S. 3997) to amend section 301 of the World War veterans' act, 1924. I ask unanimous consent for the immediate consideration of the bill.

Mr. MOSES. Let the bill be read.

Mr. REED of Pennsylvania. Mr. President, with the permission of the Senate, I will explain the bill. In brief, it extends by six months the time for the conversion of the present temporary term policies. It authorizes a new converted five-year level-premium term policy, with premiums calculated at the actual cost to the Government, so as to enable veterans to continue their insurance at the lowest possible rate compatible with a full indemnity to the Government.

It further authorizes those relatives of insane veterans, or of veterans who have disappeared, who have been paying the premiums on the policies, to make the necessary conversion which the veteran, if sane or if he could be found, would himself make.

It further authorizes the payment in annual installments of those amounts of insurance which come to less than $5 per month. That provision is made in order to protect the Veterans' Bureau from the writing of very small checks where there are many beneficiaries, involving in some cases payments as low as 6 cents a month. The bill authorizes such payments to be made in annual installments. The report of the committee is unanimous upon the bill.

Mr. REED of Missouri. Has the Senator from Pennsylvania asked unanimous consent for the present consideration of the bill?

Mr. REED of Pennsylvania. Yes; and I hope it may be granted.

Mr. ASHURST. Mr. President, I am anxious to see this bill passed at once, and I congratulate the Committee on Finance on having made a favorable report on the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Finance with amendments, on page 1, line 7, to strike out the date "July 2, 1926," and to insert "December 31, 1926"; on page 2, line 4, to strike out the words "or lower"; in line 11, after the word "all," to insert the words "yearly renewable"; in the same line, after the word "on," to strike out "July 2, 1926," and insert "December 31, 1926"; and, in line 13, after the word "before," to strike out "July 2, 1926," and insert "December 31, 1926," so as to make the bill read:

Be it enacted, etc., That section 301 of the World War veterans' act, 1924, approved June 7, 1924, as amended March 4, 1925, is hereby amended to read as follows:

"SEC. 301. Except as provided in the second paragraph of this section, not later than December 31, 1926, all term insurance held by persons who were in the military service after April 6, 1917, shall be converted, without medical examination, into such form or forms of insurance as may be prescribed by regulations and as the insured may request. Regulations shall provide for the right to convert into ordinary life, 20-payment life, endowment maturing at age 62, five-year level premium term, and into other usual forms of insurance, and for reconversion of any such policies to a higher premium rate in accordance with regulations to be issued by the director, and shall prescribe the time and method of payment of the premiums thereon, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at his election.

"All yearly renewable term insurance shall cease on December 31, 1926, except when death or total permanent disability shall have occurred before December 31, 1926: *Provided, however,* That the director may by regulation extend the time for the continuing of yearly renewable term insurance and the conversion thereof in any case where on July 2, 1926, conversion of such yearly renewable term insurance is impracticable or impossible due to the mental condition or disappearance of the insured.

"In case where an insured whose yearly renewable term insurance has matured by reason of total permanent disability is found and declared to be no longer permanently and totally disabled, and where the insured is required under regulations to renew payment of premiums on said term insurance, and where this contingency is extended beyond the period during which said yearly renewable term insurance otherwise must be converted, there shall be given such insured an additional period of two years from the date on which he is required to renew payment of premiums in which to convert said term insurance as hereinbefore provided: *Provided,* That where the time for conversion has been extended under the second paragraph of this section because of the mental condition or disappearance of the insured, there shall be allowed to the insured an additional period of two years from the date on which he recovers from his mental disability or reappears in which to convert.

"The insurance, except as provided herein, shall be payable in 240 equal monthly installments: *Provided,* That when the amount of an individual monthly payment is less than $5, such amount may, in the discretion of the director, be allowed to accumulate without interest and be disbursed annually. Provisions for maturity at certain ages, for continuous installments during the life of the insured or beneficiaries, or both, for cash, loan, paid up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable, may be provided for in the contract of insurance or from time to time by regulations. All calculations shall be based upon the American Experience Table of Mortality and interest at 3½ per cent per annum, except that no deduction shall be made for continuous installments during the life of the insured in case his total and permanent disability continues more than 240 months. Subject to regulations, the insured shall at all times have the right to change the beneficiary or beneficiaries without the consent of such beneficiary or beneficiaries, but only within the classes herein provided.

"If no beneficiary within the permitted class be designated by the insured as beneficiary for converted insurance granted under the provisions of Article IV of the war risk insurance act, or Title III of this act, either in his lifetime or by his last will and testament, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments; or if the designated beneficiary survives the insured and dies before receiving all of the installments of converted insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments: *Provided,* That no payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government life insurance fund.

"The bureau may make provision in the contract for converted insurance for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for 36 months or more. The bureau may also include in said contract a provision authorizing the beneficiary to elect to receive payment of the insurance in installments for 36 months or more, but only if the insured has not exercised the right of election as hereinbefore provided; and even though the insured may have exercised his right of election, the said contract may authorize the beneficiary to elect to receive such insurance in installments spread over a greater period of time than that selected by the insured. This section shall be deemed to be in effect as of June 7, 1924."

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

VERDE RIVER IRRIGATION AND POWER DISTRICT (REPT. 760, PT. 2)

Mr. ASHURST. Mr. President, I submit the views of the minority of the Committee on Irrigation and Reclamation in opposition to Senate bill 3342. I ask that the views of the minority may be printed in the RECORD and printed in the usual form in which reports of committees are printed.

The VICE PRESIDENT. Without objection, it is so ordered.

The minority report is as follows:

[Senate, Report No. 760, part 2, Sixty-ninth Congress, first session]

VERDE RIVER IRRIGATION AND POWER DISTRICT

May 6, 1926.—Ordered to be printed

Mr. ASHURST, as a member of the Committee on Irrigation and Reclamation, submitted the following minority views to accompany S. 3342:

For the past six years I have rendered all possible assistance to the settlers under the Paradise Verde irrigation district (now the Verde River irrigation and power district) in the hope that a plan could be adopted to finance the project so that the lands thereunder might be irrigated. Unfortunately, it has been impossible to accomplish that beneficent result, and I am now forced to the conclusion that other methods must be pursued, which include close cooperation with the Salt River Valley Water Users' Association and with the Department of the Interior. To enact the bill S. 3342 would indefinitely prolong the delay in developing these lands.

In confirmation of this view attention is directed to the hereunto attached adverse report by the Secretary of the Interior and to his decision of February 13, 1926. The answer filed in the suit now pending before the Supreme Court of the District of Columbia is also made a part of this report.

THE SECRETARY OF THE INTERIOR,
Washington, March 12, 1926.

Hon. CHARLES L. MCNARY,
Chairman Committee on Irrigation and Reclamation,
United States Senate.

MY DEAR SENATOR MCNARY: In response to your request of March 3, 1926, for report on Senate bill 3342 introduced March 1, 1926, by Senator CAMERON, I have the honor to state:

The records of the department show that on May 21 and 25, 1920, the then Secretary of the Interior entered into contracts with the Paradise-Verde irrigation district, now the Verde River irrigation and power district, whereby it was granted the "right and privilege" under Government supervision to erect along the Verde River and other minor streams on lands withdrawn under the reclamation act of June 17, 1902 (32 Stat. 388), and amendments thereto, storage dams and other irrigation works looking to the use of the flood waters of these streams for the irrigation of approximately 100,000 acres of land within the Paradise and Deer Valleys, which lands are adjacent to the lands of the Government Salt River project.

The lands affected by the contracts were not restored from the reclamation withdrawal as it was never intended because of the vital Government rights affected, especially with respect to Indian lands and also the Salt River project in which the Government was and still is interested to the extent of approximately $7,000,000 for unpaid construction charges, to entirely relinquish its control or supervision of these valuable reservoir and power sites.

In the contracts mentioned it was provided that the necessary funds for the construction of works should be provided within three years and that the construction should be started within that time and completed within six years.

It was also provided that the district should make application under the appropriate laws for rights of way over unreserved lands.

Subsequent to the signing of these contracts the district filed certain rights of way applications under the act of March 3, 1891 (26 Stat. 1095), and May 11, 1898 (30 Stat. 404), on which were outlined the entire proposed irrigation system as affecting both the withdrawn and unwithdrawn lands.

These applications which are described in the first section of the proposed act were accompanied by a map showing the entire project which was approved by the department December 1, 1920. This approval was recited to be pursuant to the acts of 1891 and 1898 and also pursuant to the contracts of May 21 and 25, 1920.

Later the district filed under the acts of 1891 and 1898, supra, amended applications, Phoenix 054822, Phoenix 054936, and Phoenix 054937 described in section 2 of the proposed bill. May 19, 1923, the department suspended action on these applications until January 25, 1924, to which date the district's time within which to finance the project had been extended.

The district having failed to finance this project, these applications were rejected February 25, 1926.

In order to assist the district in its efforts to finance the project, it was on June 7, 1921, granted the right under the act of August 11,

1916 (39 Stat. 506), to tax the unentered public lands and the entered public lands on which no final certificates had been issued within its boundaries. The right or privilege granted under this act was also made subject to the terms of the contracts of May 21 and 25, 1920.

The last formal extension of time granted the district within which to finance its project expired December 4, 1925. Accordingly, as no satisfactory showing in this connection had been made, and in conformity with the provisions of section 12 of the contract that upon the district's failure to finance, "the Secretary of the Interior may declare this contract abrogated in whole or in part," on January 16, 1926, all rights granted the district under and pursuant to the contracts mentioned were canceled and revoked.

The district on January 25, 1926, filed motion for reconsideration of this decision, which motion was denied February 13, 1926.

February 15, 1926, the district instituted in the Supreme Court of the District of Columbia a suit asking that the Secretary of the Interior be enjoined from carrying into effect the decision of January 16, 1926.

This case is still pending.

It will be observed that the contracts of May 21 and 25, 1920, with the district which were entered into pursuant to the terms of the act of February 21, 1911 (36 Stat. 925), amending the reclamation act gave the district six years within which to construct its project, whereas the acts of 1891 and 1898, supra, grant only five years for construction purposes. Furthermore, even after the elapse of almost six years, the district remains unfinanced. It is claimed that the district has raised by the taxation of the settlers in the neighborhood of $400,000, but the expenditure of this money shows no tangible results, the greater part having been paid out in the form of salaries to the district's officers and its employees.

Settlers under the proposed project have complained of the taxes being assessed against their lands, especially as no beneficial results appear to be forthcoming, and it was largely in the interest of the settlers that the action of January 16, 1926, abrogating the contracts was taken.

Considering these facts, and especially the legal action now pending in court, and doubting the ability of the district, as thus far proved, to finance a $23,000,000 undertaking, I have to recommend that Senate bill 3342 be not enacted into law.

Very truly yours,

HUBERT WORK.

DEPARTMENT OF THE INTERIOR,
Washington, February 18, 1926.

Verde River irrigation and power district. "F" Phoenix 050246. Denied

PETITION FOR RECONSIDERATION

May 21, 1920, the then Secretary of the Interior entered into a contract with the Paradise-Verde irrigation district (now the Verde River irrigation and power district) wherein there was granted the right to construct and maintain storage reservoirs on the Verde River upon lands withdrawn under the provisions of the reclamation act, and the district agreed to construct reservoirs, a diversion dam, canals, and lateral for the irrigation of certain lands in Arizona.

The agreement provided that the district should, within three years, show to the satisfaction of the Secretary of the Interior that it had made arrangements for the necessary funds, and that the funds should be available for the construction of the project, should have begun construction, and should prosecute the same diligently, so that the storage dams should be completed within six years from the date of the contract.

The agreement further provided that upon failure of the district to comply with these provisions within the time specified, or within such extensions as might be granted, "the Secretary of the Interior may declare this contract abrogated in whole or in part."

This contract was supplemented May 25, 1920, so as to grant the district the right to use certain withdrawn lands for canals for irrigation and power development.

Under and pursuant to the terms of the contract cited, the district made application for the approval of certain rights of way and easements under the act of March 3, 1891 (25 Stat. 1095), and the act of May 11, 1898 (30 Stat. 404). These applications were approved by the department December 1, 1920, subject to the contracts of May 21 and May 25, 1920, and to stipulations therein set forth.

February 5, 1921, the district made application for approval under the act of August 11, 1916 (39 Stat. 506), which application was approved June 7, 1921, expressly subject, however, to the terms of said contract of May 21, 1920.

February 3, 1923, the then Secretary of the Interior, on application of the district, and after a hearing, extended the time of the district within which to make showing as provided by the prior contracts for nine months from May 25, 1923.

May 19, 1923, the department denied the district's application for approval of an amended application under the act of August 11, 1916, supra, and at the same time suspended action on the district's application for amended canal rights of way, and for the Camp Verde and Bartlett reservoirs, pending submission within the time set, of evidence of the successful financing of the project. A further extension was applied for by the district, and after hearing and full consideration the department held, January 20, 1925:

"A further extension does not appear to be warranted and would not be in the interests of the parties concerned, including the settlers and landowners in the district. The petition is accordingly denied."

Subsequently, on petition by the district, and to afford an opportunity to parties in interest to effect a compromise of the differences, further extensions for limited periods were granted, the matter coming up for final determination January 16, 1926, on which date the department, after reciting the facts, held:

"Over $300,000 has been raised by the district through assessments on the landowners for this purpose. No moneys have been expended for construction work. After more than five years, the district has been unable to finance or begin construction or to file satisfactory evidence that it can finance or construct. Accordingly, in view of the foregoing, further delays or extensions are not warranted, and the action of January 20, 1925, is hereby adhered to and made effective as of this date."

On January 25, 1926, there was filed in the department a petition for reconsideration of said matter and request that representatives of the district be heard orally. Thereupon the Commissioner of the General Land Office was directed to hear the matter, and oral argument was presented at a hearing held in the office of the Commissioner of the General Land Office January 28, 1926.

The record has been forwarded to the department, and, as stated in the commissioner's report, it appears from the record of proceedings and the transcript of the oral hearing that no evidence has been presented which would warrant the department in changing or modifying the action heretofore taken.

As stated in previous decisions, the original contract and all grants of rights of way and approvals of the district were on the express conditions agreed to by the district, that the district would, within three years from date of the orginal contract, or within such extensions as might be granted, show to the satisfaction of the Secretary of the Interior that it had made arrangements for the necessary funds to construct the project and had actually begun construction thereof, and that it would prosecute the same with diligence, so that the storage dams should be completed within six years from the date of the original contract, or within such extensions as might be granted.

The district has failed within the time specified and within the various extensions mentioned to arrange for the financing of construction, has done no construction work, and up to the present time has failed to submit any evidence which satisfies the department that it is or will be able to construct the project.

Accordingly, and in view of the foregoing, the petition for reconsideration is denied.

Under and pursuant to the express terms and conditions of the contracts entered into between the department and the district, and under the conditions expressly set forth in connection with the rights of way and the approval of the district organization, all conditional rights of way granted or made to the district for reservoirs, dams, canals, laterals, and other structures are hereby canceled and set aside. The approval of the district for taxation purposes under the act of August 11, 1916, likewise conditioned on compliance with the terms of the contract of May 21, 1920, which conditions have not been met, is also hereby canceled and revoked.

The Commissioner of the General Land Office is hereby directed to issue notices to all parties in interest hereof and to cause the proper notations to be made upon the records of his office and of the local land office, and take any further steps which may be necessary to formally carry this decision into effect.

HUBERT WORK, *Secretary.*

In the Supreme Court of the District of Columbia, holding an equity court

Verde River Irrigation and Power District, plaintiff, *v.* Hubert Work, Secretary of the Interior, and William Spry, Commissioner of the General Land Office, defendants. In equity No. 45255

ANSWER

Come now the defendants in the above-entitled cause and in response to the rule to show cause therein issued and for answer to the bill of complaint say:

1–3. They admit the averments of paragraphs 1 to 3, inclusive.

4. Answering the averments of paragraph 4, they admit that withdrawals were made under the first and second forms, as provided by the reclamation act of June 17, 1902 (32 Stat. 388), of reservoir sites on the Verde Reservoir and of practically all the land now embraced in plaintiff's irrigation district, and, if the averment that the Government, acting through the Reclamation Service and the Secretary of the Interior, had determined, prior to 1916, not to construct the Salt River project on the Verde River or within the area now embraced in plaintiff's project and district, is intended to allege that the United

States had eliminated from its plan of irrigation under the Salt River project the lands included in plaintiff's district through the expenditure of moneys out of the reclamation fund provided by the act of June 17, 1902, they admit such averments and state the further fact to be that the reclamation withdrawal of the land proposed to be irrigated by the plaintiff was revoked prior to 1916, but that reservoir sites on the Verde River and a strip of land 1 mile wide on each side of said river throughout the territory involved in this suit were still retained by the United States under first forms of reclamation withdrawal, and they further aver that it was not then the intention of the Government, acting through the Reclamation Service and the Secretary of the Interior, or otherwise, to relinquish the control of these reservoir sites and reserved areas along said river for the reason that their control was essential to the protection of the constructed Salt River project and to further irrigation in the vicinity should it be ascertained that additional waters were available.

They admit that, in 1916, a portion of the waters of the Verde River had been appropriated and was being used by the Salt River Valley Water Users' Association, which association, they aver, has succeeded to the management and control of the Salt River project, under a contract with the United States dated September 6, 1917, and further state that said association was and is obligated by law and said contract to repay to the United States over $10,000,000, being the cost of the Salt River project, of which amount over $7,000,000 remains to be paid. They admit that this association had not appropriated the flood waters of the Verde River, but deny that a large volume of the ordinary flow of the Verde River was unappropriated or unused and state that the amount of unused waters was unascertained and the subject of much dispute and is still the subject of controversy between the plaintiff and the Salt River Valley Water Users' Association, which matter is of vital interest to the United States and its reclamation program by reason of the large debt due the United States on account of the Salt River project, as aforesaid, repayment of which is dependent upon the success of said project.

5–6. They admit the averments of paragraphs 5 and 6.

7. They admit the averment of paragraph 7 and further state, on information and belief, that Cave Creek, Skunk Creek, and New River are dry water courses, which only carry flood waters and offer no source of irrigation except as incidental to development from the Verde River.

8. They admit that the Salt River Valley Water Users' Association opposed plaintiff's application for a right of way for the Horseshoe Reservoir on the Verde River and that the Salt River Valley Water Users' Association filed a similar application for such reservoir in 1918, which application remains suspended in the files of the Land Department. They admit that the then Secretary of the Interior, in 1920, heard the arguments of the Paradise Water Users' Association, predecessor of this plaintiff and of the Salt River Valley Water Users' Association, and ruled that the former association should be given an opportunity to construct its project (which then contemplated the irrigation of some 80,000 acres of land), unless an agreement should be reached that would permit of unified ownership and control, but deny that said Secretary ruled that the then pending application for a reservoir site for the Horseshoe Reservoir would be unconditionally granted pursuant to the act of March 3, 1891 (26 Stat. 1095), and section 2 of the act of May 11, 1898 (30 Stat. 404), as an alternative; and further deny that it was ever intended to vest in the district the unqualified control under said acts of 1891 and 1898, or otherwise, of this or any reservoir site or other area then withdrawn for reclamation purposes along the Verde River. They aver that, on the contrary, it was, and has ever been, the intention, and was in fact the practice of the then Secretary of the Interior, his successor in office, and the defendant Secretary of the Interior to avail the Government of the aid of this plaintiff and its predecessor in the furtherance of reclamation through the use of the unappropriated waters of the Verde River and its tributaries, pursuant to cooperative agreements authorized by section 2 of the act of February 21, 1911 (36 Stat. 925).

They admit that a contract was executed as averred by the plaintiff, which contract they say was made and executed pursuant to said act of February 21, 1911, and which said contract, they aver, was binding upon the said plaintiff in each and every portion and particular and as to each and every provision unto said plaintiff and its predecessor relating, notwithstanding the failure of the Salt River Valley Water Users' Association to join therein as by plaintiff averred.

9. They admit the averments of paragraph 9.

10. Answering the averments of paragraph 10 they state that they are advised and believe that the matters therein stated are conclusions of law which they are not required to admit or to deny.

11. They admit the averments of paragraph 11, and state the further facts to be that the advice given by the officials of the General Land Office did not, and could not, supersede the contract made by the Secretary of the Interior, and merely constituted a procedure whereby the project could be put of record in the Land Department and approved by the Secretary of the Interior as to the location of the proposed works to be constructed, as contemplated by paragraph 8 of the contract of May 21, 1920. And they further state that certain of the lands covered by the application filed by plaintiff, including the reservoir sites and rights of ways along the river, were withdrawn for forestry purposes and under the supervision and control of the Secretary of Agriculture, and state that the only consent given by the said Secretary of Agriculture to the use of such lands by plaintiff's predecessor and by plaintiff was conditioned upon the agreement of May 21, 1920, and in reliance thereon, and was not an approval of the acquisition of rights and title under the act of March 3, 1891, as contemplated and required by section 18 of said act.

12. They admit the averments of paragraph 12 and state the further fact to be that the approval theretofore referred to was given solely pursuant to the contract of May 21, 1920, and its supplement of May 25, 1920, as to lands withdrawn for reclamation purposes, and under the acts of March 3, 1891, and of May 11, 1898, as to unreserved lands, and as to such unreserved lands subject also to the provisions of the contract of May 21, 1920, and its supplement of May 25, 1920.

13. Answering the averments of paragraph 13 they state that they are advised and believe that the matters therein set forth are conclusions of law which they are not required to affirm or to deny.

14. Answering the averments of paragraph 14 they admit all the matters of fact averred therein, to wit, that plaintiff filed, and the Secretary of the Interior approved, on June 7, 1921, an application for the right to tax public lands within the plaintiff's project, pursuant to the act of August 11, 1916 (39 Stat. 506), and they further state the fact to be that this approval was made subject to the limitations and rights granted and reserved by the United States in the contract of May 21, 1920, and that said approval was in words and figures as follows:

"Approved under the act of August 11, 1916 (39 Stat. 506), as to all public lands, subject to entry and entered lands for which no final certificates have been issued, subject, however, to the terms of the contract of May 21, 1920, between the Secretary of the Interior and the Paradise-Verde irrigation district."

They are informed and believe that the averments of the plaintiff as to the legal effect of this approval and the rights accruing thereunder to it are conclusions of law which they are not required to affirm or to deny.

15. Answering the averments of paragraph 15 they admit that a reservoir was constructed as by plaintiff alleged, but state that they have no knowledge of the expenditures made by the plaintiff in respect thereto or the rights acquired in connection therewith save the averments of plaintiff in this respect, and can neither affirm nor deny said averment and require strict proof thereof.

16. Answering the averments of paragraph 16 they admit that applications 054822, 054936, and 054937 were filed, as alleged. As to the work performed by said plaintiff therein averred, and the reasons assigned for the filing of said applications, they have no knowledge save plaintiff's statements thereof and can neither admit nor deny them, and therefore require strict proof thereof.

They deny the averments that said applications have remained unacted upon by the Land Department, and state that the said applications were, by decision dated May 19, 1923, suspended pending proof of compliance with the contract of May 21, 1920, by the plaintiff on penalty of rejection for default in that respect, and further state that by decision of February 25, 1926, these applications were finally rejected because of failure in that respect, and further because of the requirements of the United States that the areas withdrawn for reclamation purposes and covered thereby were required to be held by the United States in connection with the Salt River project, in which the United States has a present financial interest which must be conserved.

17. Answering the averment of paragraph 17 they admit that the plaintiff's bond issue of $23,000,000 has been approved as by plaintiff averred. They deny that the plaintiff has any title to the rights of ways over any public lands covered by its project, and in consequence deny that the contract of May 21, 1920, cast any cloud thereon, and aver that the contract of May 21, 1920, represents the sole and exclusive source and authority for the occupancy or use by the plaintiff of any rights of ways or reservoir sites upon the public lands of the United States within the plaintiff's irrigation district or its project, and that said contract, until the filing of this suit, has been recognized and regarded, both by plaintiff and its predecessor and these defendants, and their predecessors in office, as the sole and exclusive source of such rights and privileges in the said plaintiff and its predecessor.

18. Answering the averments of paragraph 18 they admit that on January 16, 1926, defendant Secretary of the Interior declared revoked and canceled all rights accruing to said plaintiff under the said contract of May 21, 1920, in accordance with the right so to do reserved to said defendant Secretary in section 12 of said contract, which action was taken after repeated extensions of time to said plaintiff for compliance with the terms of said contract or within which to furnish evidence of ability to comply therewith and was exclusively in the interest of the United States, and at the request of a substantial number of the members of the plaintiff district, to the end that other and

adequate arrangements may be made for the proper utilization of the reservoir sites which are still withdrawn for reclamation purposes pursuant to the act of June 17, 1902, and laws amendatory thereof.

19–20. They admit the averments of paragraphs 19 and 20 and further state the facts to be that nothing was shown by plaintiff which would permit the defendant Secretary of the Interior, in the exercise of the powers, duties, and discretion vested in him by law, to modify his previous decision or to conclude that the facts warranted him in taking the action by plaintiff then sought.

21. Answering so much of paragraph 21 as avers matters not conclusions of law, they admit that unless restrained by this honorable court they will note upon the records of the Land Department cancellation of the contract of May 21, 1920, and all plaintiff's rights thereunder. They deny that plaintiff acquired any vested rights or titles by virtue of said contract or the alleged approvals of rights of ways under the acts of March 3, 1891, and May 11, 1898, or under the act of August 11, 1916, and state that the contract of May 21, 1920, and the supplement thereto of May 25, 1920, with such extensions thereof as were heretofore granted to this plaintiff, represent the sole and exclusive rights by said plaintiff acquired with respect to the use of lands belonging to the United States in connection with its irrigation project, and further state that all alleged rights claimed by plaintiff to have been acquired under other sources were not in fact grants made pursuant to those laws, but mere forms adopted to serve the ends contracted for in the agreement of May 21, 1920, pursuant to the act of February 21, 1911, and in no case did the approvals of any maps constitute an exercise of the power of investigation or judgment and discretion required by these respective laws to be exercised by the defendants in the granting of rights or privileges under the acts of March 3, 1891, May 11, 1898, and August 11, 1916, and further state that unless the approvals claimed by plaintiff to have been given pursuant to these said acts are mere forms of procedure incidental to the contract of May 21, 1920, said approvals were void and plaintiff acquired no rights of any kind by virtue thereof.

And further answering the bill of complaint, these defendants state that plaintiff is not entitled to any relief in equity because of its laches in failing to sooner attempt to assert claim to titles pursuant to the acts of 1891 and 1898, and is estopped to now make such a claim after purporting to rely upon the contract of May 21, 1920, as the sole source of its rights for more than five years, to the detriment of the United States and these defendants who have continuously and in good faith sought to aid plaintiff in a venture in furtherance of the utilization of its withdrawn reservoir and power sites for the purposes for which they were withdrawn and under conditions of supervision to which they were by law entitled and which they were and are bound to maintain and exercise for the protection of the interests of the United States, as the said delay in asserting the invalidity of the contract has deprived the United States, acting through these defendants, of an opportunity by appropriate proceedings to terminate all claims of plaintiff to vested rights in said withdrawn lands, in order that appropriate use thereof might have been made in pursuance of the reclamation act and its amendments. They further aver that plaintiff has elected his forum and must abide by its decisions. And for further answer they aver that the damage by plaintiff averred is anticipated and speculative and should not move this honorable court to interfere, since, if plaintiff be correct in its claims, the acts of these defendants complained of by the plaintiff were of no effect in law or in fact, and should not and will not deter anyone from buying bonds on the security of plaintiff's project.

Wherefore, having made full and complete answer to the bill of complaint, these defendants pray that the rule to show cause be discharged, the bill of complaint dismissed with their reasonable costs, and that they be permitted to go hence without day.

HUBERT WORK,
Secretary of the Interior.
WILLIAM SPRY,
Commissioner of the General Land Office.

By their attorneys:

———— ————,
————— ————,
Attorneys for Defendants.

DISTRICT OF COLUMBIA, *ss:*

I, Donald V. Hunter, being duly sworn, say that I have read and am acquainted with the contents of the foregoing answer, by me subscribed, and that I am informed that the matters of fact set forth therein are true and that I believe them to be true.

————— ————,
Attorney for Defendants.

Subscribed and sworn to this — day of February, 1926, before me.

————— ————,
Notary Public in and for the District of Columbia.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day that committee presented to the President of the United States the following bills and joint resolution:

S. 1989. An act to authorize the Secretary of the Interior to purchase certain land in Nevada to be added to the present site of the Reno Indian colony and authorizing the appropriation of funds therefor;

S. 2658. An act to authorize the Secretary of War to fix all allowances for enlisted men of the Philippine Scouts, to validate certain payments for travel pay, commutation of quarters, heat, light, etc., and for other purposes;

S. 2706. An act to provide for the reservation of certain land in California for the Indians of the Mesa Grande Reservation, known also as Santa Ysabel Reservation No. 1;

S. 2853. An act to authorize the transfer to the jurisdiction of the Commissioners of the District of Columbia of a certain portion of the Anacostia Park for use as a tree nursery;

S. 3595. An act to authorize the exchange of certain patented lands in the Grand Canyon National Park for certain Government lands in said park;

S. 3953. An act to provide for the condemnation of lands of the Pueblo Indians in New Mexico for public purposes and making the laws of the State of New Mexico applicable in such proceedings; and

S. J. Res. 60. Joint resolution authorizing expenditures from the Fort Peck 4 per cent fund for visits of tribal delegates to Washington.

GAGNON & CO. (INC.)

On motion of Mr. MEANS, the Committee on Claims was discharged from the further consideration of the bill (H. R. 8486) for the relief of Gagnon & Co. (Inc.), and it was referred to the Committee on Indian Affairs.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WADSWORTH:

A bill (S. 4179) granting a pension to John T. Kiernan; to the Committee on Pensions.

By Mr. REED of Pennsylvania:

A bill (S. 4180) for the relief of Charles W. Reed; and

A bill (S. 4181) for the relief of Edward L. Duggan; to the Committee on Claims.

By Mr. SACKETT:

A bill (S. 4182) to provide a code of law governing legal reserve life insurance business in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. METCALF:

A bill (S. 4183) granting a pension to Elizabeth Blount (with accompanying papers); to the Committee on Pensions.

By Mr. ERNST:

A bill (S. 4184) granting an increase of pension to Anna Eliza Dawson (with accompanying papers); and

A bill (S. 4185) granting an increase of pension to Malissie Tallent (with accompanying papers); to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 4186) for the relief of M. Zingarell and wife, Mary Alice Zingarell; to the Committee on Claims.

By Mr. COPELAND:

A bill (S. 4187) to amend section 26 of the interstate commerce act, as amended; to the Committee on Interstate Commerce.

By Mr. NORBECK:

A bill (S. 4188) granting an increase of pension to Electa Putnam (with accompanying papers); to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 4189) to amend Title II of an act approved February 28, 1925, regulating postal rates, and for other purposes; to the Committee on Post Offices and Post Roads.

HEARINGS ON MODIFICATION OF NATIONAL PROHIBITION LAW

Mr. MEANS submitted the following concurrent resolution (S. Con. Res. 17), which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That, in accordance with paragraph 3 of section 2 of the printing act approved March 1, 1907, the Committee on the Judiciary of the Senate be, and is hereby, empowered to procure the printing of 10,000 additional copies of the hearings held before its subcommittee during the Sixty-ninth Congress, first session, on bills and resolutions relating to a modification of the national prohibition law, and of this number the committee shall cause to be delivered to the folding rooms of Congress 9,175 copies, of which 2,500 copies shall be for the use of the Senate and 6,675 copies shall be for the use of the House of Representatives.

UNIFORMITY OF LAW

Mr. CUMMINS. Mr. President, I ask unanimous consent to have printed in the RECORD a pamphlet prepared by a distinguished member of the American Bar Association, entitled "An American Common Law in the Making—The Habit of Thinking Uniformity."

The VICE PRESIDENT. Without objection, it is so ordered.

The pamphlet is as follows:

AN AMERICAN COMMON LAW IN THE MAKING—THE HABIT OF THINKING UNIFORMITY

By Thomas W. Shelton, Norfolk, Va.

In the year 1911 the Republican Club of the city of New York devoted one of its well-known symposiums to the consideration of uniformity of law. While it might have been provoked by the demands of commercial convenience, it was manifestly promotive of an American common law so to speak, as fixed and respected as that of the English. The distinction will be one of origin, for the English was not statutory. But since the American statutes are not legislative in creation, but merely in enactment, it is a distinction without a difference. When viewed in this higher aspect the laudable endeavor to attain uniformity in law takes on a dignity we venture to believe is not always discernible. Amasa M. Eaton, of Rhode Island, and Walter George Smith, of Philadelphia, past presidents of the Conference of Commissioners on Uniform State Laws, out of the broadness of their splendid wisdom, experience, and deep knowledge furnished chapters of suggestions that could hardly be surpassed. Even that learned and practical audience were able to add to their store. Besides its highly creditable origin and aid to commerce there was emphasized also the far-reaching benefits to government that lay in uniformity and the value to popular confidence in law in doing away with conflict.

THEY WERE THINKING CONSTRUCTIVELY

The able minds of these philosophical thinkers ran in the groove of construction. They dwelt upon the manner of the making of uniform statutes and the mechanics of the law in order to establish their announced thesis that uniformity was not only feasible but practical and could be made sufficiently attractive to assure adoption. With dramatic force they traced the origin and history of the splendid organization with which both had labored and over which both had presided with great ability. It is such addresses as these, by such consecrated men as these, as well as their works, that have carried reason to the minds and conviction to the hearts of the American people. They have made the Conference of Commissioners on Uniform State Laws an accredited organization second to none in jural matters. One by one their model statutes have defined the most important regulations controlling the conduct of men in their daily endeavors and intercourse. Business men have contracted the habit of looking to them for guidance and of carrying to them their complaints of conflict impeding interstate exchange and barter. One by one the State legislatures have adopted them, until to-day there is not one that has not in some instance shown its appreciation of the highly scientific and practical results of the patriotic and uncompensated research and labor of the commissioners.

WE WILL CONSIDER PROTECTION

It being quite apparent that nothing profitable could be added to what had been said upon the origin and creative aspect of uniformity, wisdom enjoined silence upon the other invited speaker. But the deeper the conviction of the need of uniformity and the support of the organization designed to achieve it, and that is achieving it, and the high respectability of its sponsors, the more urgent appeared the necessity for forestalling agencies of destruction. Herein was the cue for any remarks that might be made. And so it became pardonable to venture upon a discussion of the theme of protection—of firmly establishing the letter and spirit of model statutes as they fell from the pens of the conference. It was argued that protection of its work in all of its originality and spirit was as important as its creation.

THE TWO CHIEF DESTROYERS

Two elements offered themselves for analysis as the chief destroyers of interstate uniformity in law. The one was legislative and the other judicial. Obviously it is essential that the several State legislatures should enact in exact words the model form of statutes prepared by the commissioners. It is as manifest that the judges should reach the same interpretation of their meaning and spirit.

THE FIRST IS CERTAIN LEGISLATORS

To one unfamiliar with the experiences and limitations influencing the reasoning of the average legislator, his pride of creation, his difficulty in sinking pride of opinion, and his distrust of anything originating beyond his own horizon, the first task would appear very easy. And yet an observer ventures to suggest that every single commissioner, upon whom has fallen the responsibility of bringing about the adoption of uniform statutes in his State, will testify to the strong current of legislative hostility encountered. There were few receptive minds, still fewer open ones, and many wholly unresponsive. Their mental attitude was more psychic than the result of reason.

THE SECOND IS CERTAIN JUDGES

However, the bill having been enacted and the uniform act incorporated into the body of the law of the State, one unmindful of the well-nigh indelible influence of local customary law and the individuality of the average judge would conclude that uniformity as to that statute was assured. But the seasoned practitioner will shatter that faith with the knowledge that in court it is as difficult to break from old customs as old habits.

To many judges and lawyers a departure is a symptom of ignorance, if not of weakness, and the failure to cite ancient authority is little short of sacrilege. It is as difficult to change the personal convictions of such a judge as it would be to remake him, because of his respect for precedent and the conviction that he is preserving an old rule that had regulated his particular community during his experience. There never occurs to these otherwise courteous and urbane gentlemen the duty of being considerate of other communities. It is the laudable neighborhood conduct of giving and taking that underlies a great governmenal principle and a commercial necessity. Moreover, since a statute controls the law there are no precedents except the interpretation of that particular statute.

THE REMEDY

These being the potent enemies of national uniformity, an appeal was made to that respectable audience at the Republican Club for a remedy. Shall it be based upon unselfish courtesy; upon a defense against Federal encroachment upon States' rights; upon commercial convenience; or upon simple love of gain? It will be our purpose to show that these are all potent elements in the development of uniform statutes resulting in an American common law. Must some legislators and judges have to undergo a rebirth that uniformity may become possible? Is there no present power to convince a conscientious legislator and judge that since no State can live unto itself the promotion of the general welfare is his high duty? The States of a successful American union are jointed together as closely as the Siamese Twins.

THEY MUST THINK JOHN MARSHALL'S AMERICA

To raise the eyes of these well-meaning men beyond their own environs appealed strongly as the answer. Their vision must be extended from the confines of the State to the broad field of the Nation. They must do what his constituents failed to do; they must soar upon the living spirit of John Marshall and realize Marshall's America. One concludes that a refreshing of the true conception of the science of the dual American governments, and an awakened consciousness of the necessities of a fast-growing interstate commerce, seem to be the only influences equal to the emergency. This does not mean that one must be broadened, for the need of it is not present; nor does it imply a renascence, for of that one would despair. It merely connotes a keener conception of general principles and a governmental status well known and understood by these able jurists.

The first would make its scholarly appeal; the second would affect the deep-seated love of States' rights and as well the human love of gain and thrift. In the development of these points we shall be interested.

THE PART OF COMMERCE

We may safely lay down a trite premise. Commerce has long since beaten a highway over State boundaries from ocean to ocean and from the Lakes to the Gulf. It will brook no unnecessary impediments. Commerce is the life of the Nation. Without it there would be no treasury and without a treasury there would be no government. No legislature has even been able to finally ignore its reasonable demands and nations have waged wars in its interest.

THE PART OF STATES' RIGHTS

With equal assurance a historic fact may be recognized. Diverse State laws are an unnecessary handicap that is driving commerce to the National Congress for relief. One by one purely local regulations are being absorbed by a responsive Federal Government. Even the reserved police laws are losing vigor, if not place. This change, like all evolutions, has been going on so gradually and deliberately, and it all seems so necessary to the ordinary practices of daily life, that they pass without measurable notice except by students of the science of government. And they are more enamoured of principle than of practice. Their mild voices are like one calling in the wilderness. So it may be that the preservation of the reserved rights of the States, because it is susceptible of noisy political controversy, can be made to call louder than the love of custom and have more force than habit.

THE PART OF LOVE OF GAIN

Love of gain presents a more vocal remedy because it so evidences itself as to be heard by the man in the street. When a great commercial enterprise passes by one State and establishes itself in another not so geographically attractive, it comes home to the suffragan that there may be something unattractive, if not wrong, with his revered local laws and customs. In such cases it is the selfish interest of local commerce that brings about the evolution through legislative mandate.

And it may be after all that permanency in a matter of this character is promoted by political issues, because of the attendant publicity, however much judicial laws are preferred to legislative.

NONE OF THESE THINGS INFLUENCE THE JUDGE

But none of these circumstances influence the judgment of the court, all of which is meet and proper. In his cloistered chamber he patiently awaits the grist from the legislative hopper to tell the legislature what its statutes mean. His ears are closed to the clamor upon the husting as they are to the "trade talk" that leads to a written contract. This is as it should be.

THINKING UNIFORMITY WILL INFLUENCE THE JUDGE

And such being a condition, attention to theories is not helpful. The suggestion is justified that the judge must be educated to think uniformity. Unless one thinks in a language he can not speak it at its best, if at all. Having so concluded, with the approval of the judges, if not of laymen, it is in order to put an inquiry. Who is best prepared and credentialed to perform this dignified task? The only answer that makes an appeal to the experienced is that it is another judge or other judges.

THEREFORE THE ANNUAL CONFERENCE OF JUDGES

And so the proposal made by one of a different political persuasion was ventured and accepted at that symposium that there ought of necessity to be a yearly national conference of appellate judges. And the thought having been boldly given expression with a sympathetic response, the first seed had fallen into good ground. It was sedulously tended until it fructified into the historic conference at Montreal in 1912, now known as the influential judicial section of the American Bar Association.

ONLY ONE THING IN THE WAY

It may be helpful to dwell on this subject a moment. Of interest among the judges there is plenty. But one thing stands in the way of the splendid usefulness for which the conference was designed. That is a lack of travel-expense funds on the part of some of the very judges whose presence is mostly needed. A small appropriation by each State would solve this difficulty. Virginia promptly responded. It is believed that every legislature would follow the example if in each State the matter were persistently brought to the attention of legislatures by some one or two patriotic believers in uniform laws. It is a small premium to pay for insurance against conflicting decisions and the threat of the deprivation of State rights.

IT IS A PROGRESSIVE CONGRESS OF JUDGES

It was intended that policies should come up in these interstate conferences just as they do in the conference room of a particular State court. But though no specific uniform statute and no particular decision were ever discussed at these meetings, it is respectfully suggested that the desired result would be achieved. The influence of personal acquaintance and the prospect of future pleasant fellowship would make the chief justice of California a little more than the conventional "learned brother" to the chief justice of Maine. Before welding to the body of the Maine law a diverse opinion he would most likely seek reasons from his California "friend" wherein there would be no less a conference although held through the post. So the judges are educating themselves to think uniformity. And it is well, for no one else is in position to do it. Between them it is comity; between them and others it would be conceit.

AN ARCHAIC DIVERSE PROCEDURE MUST GO

While the judges are thinking uniformity in interpretation let there be removed the last obstacle, which is a diverse practice and procedure. There is no more excuse for differing judicial procedure than for differing languages in the several States. More harm is done by the former than would be by the latter. One would hardly try to speak an unknown language, but the business man is forced to use an unknown practice and procedure if he make but a few commercial steps from his front door. It is not a matter of choice, but one of necessity. While a State would indignantly deny having erected a Chinese wall around its source of justice, it would hardly dispute the erection of a chevaux de frise substantially serving the same purpose. This impediment also the judges are aiding the American Bar Association's committee on uniform judicial procedure to brush aside. The diversion is pardonable to suggest that the improvement of the substantive and adjective law should be separately considered as things apart.

SOME HURTFUL ADMINISTRATIVE HISTORY

Anticipating a well-known professional mental attitude to demand evidence, before concluding we turn to one of the leading States of the Union and one having judges and lawyers noted for their erudition and ability. Pennsylvania adopted the uniform negotiable instrument statutes on May 16, 1901. The late Amasa M. Eaton made a careful analysis of the fifty-odd decisions passing upon these statutes up to April, 1914. The result of his labor is interestingly evidenced in an article published in Sixty-second University of Pennsylvania Law, Revised, 407, to which attention is invited, since length forbids reproduction. He complains that when the uniform act is followed no citation of it is made. On the contrary, citation to prior authority oftener appears. While the result is the same where no change was made in the old law, the spirit of uniformity suffered by being ignored. In many instances the court depended upon equity in justification of its judgment, wholly ignoring an appropriate clause in the act. The law having been put into a concise code for the express purpose of bringing about uniformity, the source of authority is the code and the prior cases under it. Therefore it is respectfully suggested, it becomes a judicial duty to cite it. Such is essential to a proper recognition of the act and the complete displacement of the prior law by the new in the minds of the bench and bar. It is a condition precedent to thinking uniformity.

MORE UNSYMPATHETIC HISTORY

In Twenty-third Yale Law Journal, 293, appears another long list of cases evidencing the attitude of the courts toward another feature of the same law. It is the effect of an antecedent debt as constituting value. Mr. Eaton complained that "common-law lawyers (on the bench and before it) are steeped in the common-law principles of consideration and assumpsit, but are not steeped in knowledge of the principles of the law merchant, and who fail, therefore, to perceive that the object of section 51 is to force upon them very different conceptions on this subject of the law merchant."

The article supplies interesting history. For instance, he cites Vachals *v.* Waukesha, etc., Co. (195 Fed. 807 (1912)), to show that the Legislature of Wisconsin (1899) in adopting the uniform negotiable instrument law did not amend nor repeal the statute of 1898 (sec. 1753) limiting the issue of corporate bonds. Wherefore the issuance of such bonds for antecedent debts could not be done, though the letter and spirit of the negotiable statute obviously intended it. It is manifest, therefore, that serious alterations of the uniform law may be brought about without omission or change of text or diverse decisions, but by prior unrepealed statutes.

REPEAL OF PRIOR CONFLICTING STATUTES NECESSARY

"All statutes in conflict herewith are hereby repealed" would not prove to be a bad addendum to all uniform acts. As in Wisconsin, a fixed public policy may at times be cut down, but in a broad way, and in the long run it is probable that justice may best be served. That is, however, one of the most obstinate enemies of uniform statutes, as we have tried to show. The effort is to rid modernity of the drag of provincialism, even at the sacrifice of a few pet ideas.

ENEMIES OF UNIFORMITY LISTED

So, if the enemies of uniformity were marshaled, they would probably rank in the following order: (1) The judge who thinks that his individual experience is a better guide to government than the concerted wisdom of a selected, consecrated, and painstaking conference of lawyers and teachers with every possible light before them; or that there is no room for improvement. (2) The legislature that insists upon changing the phraseology or arrangement adopted by the commissioners. (3) The judge who decides the law of the case without reference to the uniform statute incorporated in the code, or to cases from the States interpreting it, or who never cites it if he wills to follow it. (4) The legislature that fails negligently or intentionally to give it a clear road by abolishing all conflicting statutes.

AN THEN AN AMERICAN COMMON LAW

The struggle for the great common law of England is kept too fresh in mind by contemporaneous writers to justify discouragement in the making of an American common law. There is no more interesting chapter in legal history than the uncompleted part played by Coke and the substantial establishment of principles wrought by the Scotch determination of Mansfield, when he converted custom into laws and confined the jury to the facts. Subsequently neither the technical Eldon nor an interfering chancery could check the inevitable development of the common law. So while obstacles arising out of human tendencies may prevent the prompt achievement that merit and necessity give its creators the right to expect, and while indifference may hold back the day of universality, one may venture to believe that the principle of an American common law is a living thing, needing only the nourishment of public encouragement for its complete development. Such will follow a popular recognition of its wholesome inspiration and beneficent purposes.

THOMAS W. SHELTON.

NORFOLK, VA.

BOULDER DAM PROJECT

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Arizona Daily Gazette on April 28 which refers to the Swing-Johnson bill.

The VICE PRESIDENT. Without objection, it is so ordered. The article is as follows:

THE TRUTH COMES OUT OF CALIFORNIA

PHOENIX, *April 27.*

EDITOR THE GAZETTE: I am inclosing you herein an article on the Swing-Johnson bill and the Boulder Dam question printed as an edi-

torial in the New Pacific Coast Law Journal, published at Pasadena, Calif.

This article may be of some interest to the people of this State, and I request that you publish the same.

To my mind the author of this article is fully justified in his strictures on the pernicious activities of certain Cabinet officers and Federal officials when he says that they have strayed beyond their legitimate functions and powers in the matter.

Very truly yours,

SAMUEL WHITE.

The editorial Mr. White refers to is here reproduced in full:

The impasse of the Boulder Dam project still persists. Strenuous efforts are being made to rescue the project from its seeming grave. For three years or more the project has been the cynosure of all eyes—on the Pacific coast, at least.

That there exists a situation urgently calling for relief can not be questioned. That the Colorado River Basin furnishes an immense quantity of water going to waste for lack of utilization is known to all. That there are potential millions of horsepower of electrical energy lying unutilized is also true.

The people seeking to further the enterprise of conserving and harnessing the surplus waters of the Colorado River should be governed by Davy Crocket's sage advice: "Be sure you're right; then go ahead." These people have not gone about the matter in a proper, not to say an intelligent, manner.

The Colorado River Basin States own the waters of that river flowing through their respective territorial limits for such useful purposes, actual or potential, present or prospective, to which they can apply the same. In this right these river-basin States are supreme in their sovereignty under the Federal Constitution. They can not be coerced in the matter. The free and whole-hearted consent, concurrence, and cooperation of these States and of all of these States is essential and must be first secured. This consent, concurrence, and cooperation has not been secured or sought on an equitable basis. Sister or adjoining States can not coerce all or any one of the river-basin States. The United States Government can not dictate terms to the river-basin States or to any one of them in this matter touching their sovereignty. Congress can not, constitutionally, pass any law infringing the sovereignty of these States in the matter of the proposed enterprise, or deprive these States of any of their sovereign powers, privileges, and rights.

The "ground" for such an enterprise and improvement not having been "cleared" in a legal, proper, and intelligent manner, all efforts at this time are thrown away and all moneys expended in an attempt to promote the coveted enterprise are squandered. Go about the matter in a proper, businesslike manner, and there may be a chance of accomplishing something worth while, otherwise nothing can be accomplished save humiliating defeat.

Certain recommendations and suggestions have been made by heads of departments of the Federal Government—Cabinet officers. These are purely gratuitous intermeddling with a matter not within the jurisdiction of their offices or within the scope of their functions and powers. In purely State matters—however important in themselves and however many people are to be affected thereby—in a democratic Republic like ours the Federal authorities must keep hands off.

At the suggestion of these Federal functionaries, and in accordance with the plans outlined by them, efforts are being made by the sponsors of the Boulder Dam project, which efforts are unsuccessful to date, to redraft the Swing-Johnson bill in such a manner as to make it acceptable to all the river-basin States involved, whose interests are affected and whose sovereignty is invaded or sought to be invaded. Current and newspaper report informs us that the measure, as revised to meet the recommendations of Secretary Work, includes provisions that—

1. A 550-foot dam shall be constructed in Boulder Canyon.

2. An all-American canal shall be constructed from the Colorado River to the Imperial Valley.

3. A 1,000,000-horsepower hydroelectric plant shall be constructed.

4. A Government bond issue of $125,000,000 shall be floated to finance the development, to be paid off from profits in sale of power and water.

But the redrafted bill in this proposed form arouses the opposition and outspoken denunciation of the solons of the river-basin States—with the exception of California. The bill as suggested in its redrafted form includes only the final objectives aimed at—the high lines of the purposes. However desirable and generally beneficial these ultimate objectives may be in themselves, the redrafted bill as proposed does not provide a working arrangement under which all the interests and rights of each of the river-basin States will be deliminated and such rights of the respective States fully and satisfactorily conserved. The first essentials in such a redrafted bill are wholly ignored. Why?

The bill as proposed, in its incomplete and chaotic state, with only distant high objectives outlined, is said to have received the indorsement of Director Mead of the Reclamation Service of the Federal Government. But Director Mead, like Secretary Work, is straying beyond his legitimate functions and powers in the matter, and his approval of a bill or of a proposed bill not embracing the first fundamentals of the proposed project under which can be secured the pacification of the river-basin States by securing and conserving to each of such States their interests and sovereignty—the indorsement adds nothing toward the final accomplishment of the object in view, reaching the goal sought; the untying—or cutting—the Gordian knot.

It is said that the measure as redrafted is to become self-operative when a Colorado compact is signed by six of the seven Colorado River Basin States. Such a provision will nullify and destroy the bill should it by any possible chance in that form become a law.

Is the seventh State to be coerced? If so, by what right, on what grounds, and by what means? In the same method a bold highwayman, at the point of and with persuasion of a gun, coerces the unfortunate pedestrian to surrender his valuables? And this is a civilized and law-abiding country?

Are we, in the twentieth century, to be pushed back into and submerged beneath the politics, policies, and principles of the barnburners and antirenters flourishing in the Eastern States of this country in the early part of the nineteenth century, as depicted in all their lawlessness and infamy by James Fenimore Cooper in his Redmen—Indians and Injuns?

Have we not too many Senaca Newcombs in this business?

BIRTHPLACE OF LONGFELLOW

Mr. COPELAND. Mr. President, some months ago a number of prominent men of the State of Maine joined in an earnest plea for the preservation of the birthplace of Longfellow. Provision to assist this movement is made in the bill reported by the Committee on Banking and Currency to authorize the Treasury to prepare a medal commemorative of the poet. The Secretary of the Treasury has stated:

The department will be ready to cooperate with the Longfellow Society in issuing a medal should Congress authorize the same. The facilities and experience of the mint could be placed at the disposal of the association for the production of a suitable medal, and every assistance possible would be rendered by this department to expedite its production.

I ask unanimous consent that the names of citizens of Maine who indorse this enterprise be printed in the RECORD; also a few short letters from governors of States, afterwards elected to the Senate, from the mayor of Boston, and from the president of the New York State Federation of Women's Clubs.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

GOVERNOR OF NEW JERSEY

MY DEAR MR. JACKSON: I have your letter of the 3d instant, and want to thank you for electing me as an honorary president of the International Longfellow Society.

I shall be very glad to serve in this capacity, and wish you all success in this worthy enterprise.

Very truly yours,

WALTER E. EDGE, *Governor.*

GOVERNOR OF SOUTH DAKOTA

DEAR MR. JACKSON: Because of what Longfellow's sincere love for children meant to me as a child when I first read his beautiful verses, what it means to me now as a man, and what it means to the children of our country, it is with gratification and pride that I become an honorary president and life member of the International Longfellow Society.

Yours sincerely,

PETER NORBECK, *Governor.*

GOVERNOR OF KANSAS

DEAR MR. JACKSON: Your letter of September 29 was duly received. I shall be very glad to serve as one of the honorary presidents of the International Longfellow Society and want to assure you of my warm interest in the movement.

Very respectfully,

ARTHUR CAPPER, *Governor.*

GOVERNOR OF KENTUCKY

MY DEAR MR. JACKSON: I have your very kind favor of recent date advising me of my election as an honorary president and life member of the International Longfellow Society.

I am deeply sensible of the honor conferred and heartily felicitate you upon this admirable endeavor. The life and writings of Longfellow are an inspiration to the American people, and they honor themselves in honoring him.

Very sincerely yours, A. O. STANLEY, *Governor.*

As the birthplace of our great poet has been dedicated as a distinctively international Longfellow memorial, we gladly join the Inter-

national Longfellow Society in urging your good offices for the preservation of this world shrine. There are few, indeed, to whom the world owes a deeper debt of gratitude than to Longfellow, or for whom it feels as sincere an affection.

Percival P. Baxter, Governor of Maine; Frank W. Ball, secretary of state; H. Siles Bradley, minister State Street Congregational Church; Carroll S. Chaplin, mayor of Portland; P. F. Chapman, president Chapman National Bank; Charles B. Clarke, ex-mayor of Portland; Charles Sumner Cook, chairman Fidelity Trust Co.; Leslie C. Cornish, chief justice supreme court; O. C. Curtis, ex-Governor of Maine; H. E. Dunnack, Maine State librarian; A. G. Goodard, minister Chestnut Street Methodist Church; Charles E. Gurney, chairman Public Utilities Commission; E. W. Hannaford, president Forest City Trust Co.; William B. Jack, superintendent Portland schools; Charles F. Johnson, United States circuit judge; Joel H. Metcalf, minister First Unitarian Church; John A. Peters, United States district judge; Edward E. Philbrook, surveyor Port of Portland; C. A. Robinson, postmaster of Portland; Ransford W. Shaw, attorney general of Maine; Augustus O. Thomas, State superintendent of schools; J. Harrison Thompson, minister First Baptist Church; George F. West, president Portland Young Men's Christian Association.

CITY OF BOSTON,
OFFICE OF THE MAYOR,
City Hall, May 15, 1925.

Hon. EDWIN MARKHAM,
Staten Island, N. Y.

MY DEAR MARKHAM: I am heartily in favor of your devoted service to raise a fund which will cancel the mortgage upon the birthplace of Henry Wadsworth Longfellow, world-beloved poet, and which is one of the finest examples of colonial architecture within the State of Maine.

No man in the history of the Commonwealth of Massachusetts was ever more greatly beloved than Longfellow, and his inspiring message for the idealism of the world will live until time is no more.

May I assure you I am very pleased to inclose my mite in behalf of the International Longfellow Society, and sincerely trust that the indorsement by the Nation may make early provision for the cancellation of the obligation upon the birthplace of the famous poet.

Sincerely yours,

JAMES M. CURLEY, *Mayor.*

NEW YORK STATE FEDERATION OF WOMEN'S CLUBS,
South Mountain Park, Binghamton, N. Y., September 19, 1925.

Mr. ARTHUR C. JACKSON,
President the International Longfellow Society,
Longfellow Birthplace, Portland, Me.

MY DEAR MR. JACKSON:

* * * * * * *

I honor myself when I accept an invitation to commemorate the memory of Longfellow, or in any way further the activities whereby we keep before the American public the remembrance of this singer of songs.

While visiting on the French Riviera four years ago, my husband (who was a poet and, you will recall, the author of The Children) and I stopped some time at Mentone. In one of our strolls we chanced suddenly upon a bust of Longfellow carved in the purest of white marble and set upon a pedestal in the midst of a little triangular piece of turf carefully fenced in. We were so impressed by this mute tribute to American letters that we at once determined to ascertain the source and inspiration of it. No one knew about it in the English or American resident colonies at Mentone, and my husband wrote to Alice Longfellow concerning it, but she has no information on the matter. Isn't it a beautiful tribute? I think you might like to know about it.

Believe me to be,

Most cordially yours,

ALICE B. M. DICKINSON.
(Mrs. CHARLES M. DICKINSON.)

CARNEGIE INSTITUTE OF TECHNOLOGY

Mr. GOFF. Mr. President, I present a newspaper clipping from the Pittsburgh Press of Tuesday, May 4, entitled "Baker report denies drinking by Tech men," which I ask may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BAKER REPORT DENIES DRINKING BY TECH MEN

At a meeting of the committee of the trustees of the Carnegie Institute of Technology last Friday, Dr. Thomas S. Baker, president of the Carnegie Institute of Technology, made a report concerning the matter of drinking by students brought out in the testimony before the committee of the Senate which had been investigating the question of prohibition.

Following the meeting, President Baker made this statement:

"I regret that it has not been possible to make a public statement on this subject earlier, but I wanted to have time for a thorough study of the situation, and I wished to present my report first to the trustees at a regular meeting.

WANT DRINKING SUPPRESSED

"The officers, faculty, and students of the Carnegie Institute of Technology have been greatly encouraged by the many expressions of confidence and approval that have come to them. Col. Samuel Harden Church, as chairman of the board of trustees of the Carnegie Institute of Technology, is not in touch with the student body and he has stated that his testimony in regard to drinking among young people should be regarded as a generalization, which does not apply specifically to students at this institution. I can say with the greatest emphasis that the leaders among the students are very desirous of suppressing drinking at student celebrations, most of which is done by visitors.

"At the institution, as in most American colleges to-day, there is a large measure of self-government among the students. I have been amazed at the zeal and the wisdom of our student council in its efforts to assist the faculty in advancing the best interests of the institution. In the few cases of disorder, which have occurred at student parties, It has disciplined the offenders or has asked the faculty and authorities to take action. Infractions of regulations with regard to the use of liquor are dealt with summarily. The constant or regular drinker is unknown in this institution. In a technical school, where the laboratory and shop work makes very heavy demands on the time of the student, and where the standard of scholarship is high, dissipation, even if not discovered, brings with it dismissal for poor work.

PENALTIES SEVERE

"The life in our 19 fraternities is very wholesome. There are stringent regulations and severe penalties for drinking which the fraternities themselves enforce rigorously.

"I can assure the parents of our students and the friends of the institution that there is no ground for concern on this subject; that our students are an unusually hard-working and high-minded set of young men and young women; and that their leaders are just as jealous of the good name of Carnegie as any officer or member of the faculty. The trustees share with me pride in the manner in which they have conducted themselves during the past two weeks. They have felt the undeserved criticism that has been published very keenly."

JUDICIAL SALARIES

Mr. REED of Missouri. Mr. President, I ask unanimous consent for the present consideration of Senate bill 2858, which is commonly known as the judges' salary bill. I think it will not require much discussion.

Mr. CURTIS. I hope bills on the calendar may be considered this morning until 2 o'clock under Rule VIII. I am also going to ask unanimous consent—and I have spoken to the assistant leader on the other side about the request—that this afternoon at not later than 5.30 o'clock the Senate shall take a recess until 8 o'clock p. m. and that at the evening session unobjected bills on the calendar shall be considered, the Senate to remain in session not later than 11 o'clock. That will give us two hours this morning to consider the bills on the calendar under Rule VIII, and give us three hours to-night.

Mr. ASHURST. Mr. President, I wish to be heard.

The VICE PRESIDENT. The Senator from Missouri has the floor.

Mr. CURTIS. If it will take any time to discuss the request which I have submitted, I will withdraw it and ask for the regular order.

Mr. REED of Missouri. Mr. President, I did not rise to object to the request of the Senator from Kansas at all, but I had the floor. We have just passed a very important bill, and I thought, perhaps, I could obtain consideration for the judges' salary bill. If objected to, of course, I can not secure consideration for it at this time.

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. REED of Missouri. Yes.

Mr. ASHURST. I am in favor of the bill proposing increases in salaries of the judges, and I congratulate the Senator from Missouri [Mr. REED] upon his energy in this behalf; but if we should agree to the request for unanimous consent to consider unobjected bills only on the calendar, the Senator from Missouri would make no progress with the judicial salary bill. The Senator from Kansas, I think, should change his request so that bills objected to or unobjected to may be taken up.

Mr. REED of Missouri. Mr. President, did I understand the Senator from Kansas to object to taking up the judges' salary bill at this time?

Mr. CURTIS. Mr. President, I do not wish to object, but I did object to a bill presented by the Senator from Texas, and I had intended to object to other bills, because we ought to take up the calendar this morning, and if we take up individual bills and they shall be debated, there will be no business done at all this morning.

I am going to change my request, if I may be permitted to do so, and ask that we devote this morning, after the routine morning business shall have been concluded, to the consideration of bills on the calendar until 2 o'clock, and that on Saturday night we have a session beginning at 8 o'clock and continuing not later than 11 o'clock for the consideration of unobjected bills on the calendar. If it is not agreeable to Senators to have a session on Saturday night, then I will make the request for Monday night.

Mr. ASHURST. Mr. President, I wish to be heard.

Mr. CURTIS. I withdraw my request; I do not want to interfere with the regular order of business.

Mr. ASHURST. Mr. President, it is useless to proceed with the calendar to consider only unobjected bills. We ought for a time to proceed so that if a bill be objected to a Senator who wishes to have such bill discussed may have the right to move to proceed to its consideration, and then under the rule he may have five minutes in which to discuss such bill.

The VICE PRESIDENT. The Senator is stating correctly the procedure under Rule VIII.

Mr. ASHURST. It is impossible to secure the consideration of contested bills when we agree in advance that only uncontested bills shall be considered.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. ASHURST. I do not think I have the floor.

Mr. LENROOT. May I suggest that the way to reach this matter is to consider the calendar for unobjected bills and then go back over it again for objected bills.

Mr. REED of Missouri. Mr. President, I am not opposing the request for unanimous consent in whatever form the Senator from Kansas may desire to put it. I am asking for unanimous consent now to take up Senate bill 2858. I do not think the discussion will occupy more than a few minutes.

The VICE PRESIDENT. Is there objection?

Mr. BLEASE. Mr. President, I do not like to object to anything my friend from Missouri wants, but, outside of the salaries which are proposed for the judges of the Supreme Court of the United States, I am opposed to this bill. I am in favor of an increase in the salaries of the Chief Justice and the Associate Justices of the Supreme Court of the United States, but I am not in favor of increasing the salaries of other judges. For that reason I object.

Mr. REED of Missouri. The Senator might let the bill be taken up for consideration and then make his speech on it. Let us have a chance to pass it or reject it. I am merely asking unanimous consent for the present consideration of the bill.

Mr. BLEASE. I understood that if the request were granted the bill would be considered under the five-minute rule. I object to that; but if the bill may be taken up and discussed without reference to the five-minute rule I shall not object.

Mr. REED of Missouri. I hope Senators will let us dispose of this bill. I have tried to get it up several times.

Mr. BORAH. I will inquire whether if taken up by unanimous consent the discussion would be unlimited?

The VICE PRESIDENT. The Chair would hold that if taken up by unanimous consent the time for the discussion would be unlimited.

Mr. LENROOT. Will the Senator from Missouri make his request for consideration under Rule VIII? That would limit the debate to five minutes on the part of each Senator.

Mr. KING. Then I will object.

Mr. LENROOT. Then it seems to me it will take until 2 o'clock to consider the bill.

Mr. REED of Missouri. I do not think it will. I have spoken to Senators who are opposed to certain features of the bill and those with whom I have talked have said that, while they desire an opportunity to express the views which they have, they do not desire to discuss the matter at great length. Of course, unless the bill shall be passed pretty soon we can not get it through the House of Representatives. I hope I may secure unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2858) to fix the salaries of certain judges of the United States, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and to insert:

That the following salaries shall be paid to the several judges hereinafter mentioned in lieu of the salaries now provided for by law, namely:

To the Chief Justice of the Supreme Court of the United States the sum of $21,500 per year and to each of the Associate Justices thereof the sum of $20,000 per year.

To each of the circuit judges the sum of $15,000 per year.

To each of the district judges the sum of $12,500 per year.

To the chief justice of the Court of Claims and to each of the other judges thereof the sum of $12,500 per year.

To the chief justice of the Court of Appeals of the District of Columbia and to each of the associate justices thereof the sum of $13,500 per year.

To the chief justice of the Supreme Court of the District of Columbia and to each of the associate justices thereof the sum of $12,500 per year.

To the presiding judge of the United States Court of Customs Appeals and to the judges thereof the sum of $13,500 per year.

To each member of the Board of General Appraisers, which board functions as the customs trial court, the sum of $12,500 per year.

That all of said salaries shall be paid in monthly installments.

SEC. 2. That this act shall take effect on the first day of the month next following its approval.

Mr. REED of Missouri. Mr. President, I have heretofore offered an amendment in the nature of a substitute.

The VICE PRESIDENT. The amendment in the nature of a substitute proposed by the Senator from Missouri will be read.

The LEGISLATIVE CLERK. It is proposed to strike out all after the enacting clause and to insert:

That the following salaries shall be paid to the several judges hereinafter mentioned in lieu of the salaries now provided by law, namely:

To the Chief Justice of the Supreme Court of the United States the sum of $20,500 per year, and to each of the Associate Justices thereof the sum of $20,000 per year.

To each of the circuit judges the sum of $12,500 per year.

To each of the district judges the sum of $10,000 per year.

To the presiding judge of the United States Court of Customs Appeals, and to each of the other judges thereof, the sum of $12,500 per year.

To the Chief Justice of the Court of Appeals of the District of Columbia, and to each of the associate justices thereof, the sum of $12,500 per year.

To the Chief Justice of the Court of Claims, and to each of the other judges thereof, the sum of $12,500 per year.

To the Chief Justice of the Supreme Court of the District of Columbia, $10,500 per year, and to each of the associate justices thereof the sum of $10,000 per year.

To each of the members of the Board of General Appraisers, which board functions as the customs trial court, the sum of $10,000 per year.

That all of said salaries shall be paid in monthly installments.

SEC. 2. This act shall take effect on the first day of the first month next following its approval.

The VICE PRESIDENT. The question is on agreeing to the amendment in the nature of a substitute.

Mr. REED of Missouri. Mr. President, I have heretofore expressed myself on this bill, and I will now merely say that the bill as reported by the Judiciary Committee fixed the salaries of the judges at higher rates than proposed by the pending substitute which I have offered. The reason for the change that is now before the Senate is this: The committee of the House of Representatives have considered a similar bill, have arrived at the conclusion that they do not want to go beyond a certain point in the salaries, and have agreed on what that committee at least think is the proper standard. The committee of the American Bar Association have been here and have stated to me that they believe it is better to yield to the views of the committee of the House than to contend for larger salaries, although they regard the larger salaries as only just. Accordingly I have brought forward an amendment which fixes the salaries as reported by the committee of the House, with the idea that if this bill shall now be passed by the Senate it can probably receive favorable consideration by the House. I think the salaries now proposed are entirely too low in a number of instances. I think we must bear in mind that under the recent act of Congress the jurisdiction of the Supreme Court as to appeals has been changed and that the courts of appeal have become for all practical purposes courts of last resort.

Of course we all understand that the Supreme Court has the right, upon certiorari, to order cases before it for determination; but, looking at the question from the practical standpoint, we must regard the courts of appeals as now having a very much greater responsibility than in the past. They ought, under the circumstances, to be composed of men of the highest

order of ability. They ought to be judges of great experience and learning.

There is no waste equal to that which can be committed by an incompetent court. The salaries as now stated in the substitute, in my judgment, are far below what we ought to pay if we expect to keep the courts of the land on a high plane; because, first or last, men are bound to consider the care of their families, their own comfort, and their ability to earn money in the profession of the law.

I regret that it is necessary to fix these salaries as low as they are. I think we can make no greater mistake than to depreciate the quality of our Federal courts. Their jurisdiction to-day is very much greater than it was a few years ago. The work thrust upon them is of a more onerous kind and involves an immense amount of labor.

No matter what we may say about the liberty of a people, no matter what we may write into our constitutions or our statutes, after all is said and done there is no protection for life or property in any country unless it is finally found in the courts of the land. In the justice or the lack of justice that is administered is to be found at last the measure of human liberty.

Mr. President, that is all I desire to say now. I hope this bill can pass in its very moderate form.

Mr. McKELLAR. Mr. President, I think practically all of us concede that the salaries of our Federal judges are too small. In some of the States much larger salaries are paid. I should like very much indeed to see the amendments made by the Senate committee adopted. I think the schedule of salaries fixed in that amendment is very much nearer what we should pay to our judges. I should much prefer to vote for the salaries fixed in the Senate amendment; but, as I understand, the parliamentary situation and the conditions generally are such that there is no chance to get the schedule of salaries fixed by the Senate committee enacted into law at this session, and therefore I shall vote for the salaries as fixed by the House committee.

"The laborer is worthy of his hire." These Federal judges have onerous duties. They have responsible duties. They have had many additional duties within the last few years put upon them by the Congress. We have had four additional constitutional amendments passed in the past 10 or 12 years, all imposing additional duties on Federal judges. The income tax law, the Volstead law, the immigration law, the bankruptcy law, and other Federal laws passed in recent years have made all the Federal judges in the land busy. They ought to have sufficient salaries to give them a reasonably good living, so that their minds might be free from financial troubles while passing upon cases coming before them.

It is true that in some States judges do not receive even as large salaries as our Federal judges now receive. There may be constitutional or other local reasons why these lower salaries prevail in some States. This should not prevent the Congress from giving Federal judges reasonably adequate salaries. Nor do I think salaries should be graduated in accordance with a supposed difference of importance in the duties of Federal judges. A busy Federal judge in Tennessee or in Wisconsin or Colorado should have the same salary as a busy judge in New York or Pennsylvania. My observation is that in these days all our Federal judges are busy much alike.

I merely desire to express my approval of this move to increase the salaries of our Federal judges as being right and proper, and I hope the Senate will pass the bill.

Mr. WILLIAMS. Mr. President, I should like to inquire of my colleague if the bill which we are now considering is Order of Business No. 379?

The VICE PRESIDENT. That is the calendar number.

Mr. REED of Missouri. I do not know whether or not the Senator has the substitute bill in his file.

Mr. WILLIAMS. The salary of the Chief Justice, as stated on page 2 of Order of Business No. 379, is fixed at $21,500. I assume that that is a clerical error.

Mr. REED of Missouri. No; the Senator has the original bill.

Mr. WILLIAMS. I have the original bill as amended in committee.

Mr. REED of Missouri. I have offered on the floor a substitute. I will have a page take it to the Senator.

Mr. WILLIAMS. That is virtually the House bill, is it?

Mr. REED of Missouri. Yes; it is the House bill.

Mr. KING. Mr. President, it is a most ungracious task for a lawyer to oppose a measure increasing the salaries of judges. I have had the honor to be a justice of the Supreme Court of Utah and for a number of years actively engaged in the practice of my profession as a lawyer. I know something of the responsibilities resting upon judges and of the importance of the judiciary in a Government such as this. No one has a more profound respect for our courts than myself, and I pay tribute to the judiciary of our country.

The Senator from Missouri [Mr. REED] has upon a number of occasions eulogized the courts, both Federal and State, and emphasized the necessity of obtaining lawyers of eminence and integrity to fill judicial positions. With these statements I agree, and I think it can be truthfully said that, generally speaking, the judges of the United States—and I include, of course, judges of the various States—have measured up to the great responsibilities which rest upon them. However, it must be confessed that in some instances political appointments have been made and incompetent persons have been selected for judicial positions.

I am not quite in accord with the statements sometimes made that lawyers of ability can not be obtained for judicial positions unless large salaries are paid. I have known many lawyers of eminence and of great ability who have sacrificed their practice which brought to them many thousands of dollars a year to accept judicial positions. They felt that there was honor and dignity in the judicial positions which they voluntarily accepted, and they were willing, at a great financial sacrifice, to serve their people and their country.

A few years ago, when most of our Federal judges received but $5,000, some of the ablest lawyers left lucrative practices to accept judicial positions. I do not mean to infer that judges should not be paid reasonable salaries. Indeed, I believe that their compensation in many States is not sufficient and that Federal judges are entitled to an increase in their compensation. I do not believe that the bill before us is entirely just or that it establishes an entirely satisfactory ratio between the various positions therein dealt with.

Under other circumstances, Mr. President, I should be glad to vote for a substantial increase in the salaries of Federal judges, but I believe that it is inopportune to press this bill or any bill increasing the salaries of judges at the present time.

There are more than three-quarter of a million Federal employees, and the number will be greatly increased within the next two or three years. Demands are made from every department and executive agency for increases in the salaries of Federal employees. Large increases have been made within the past few years in the compensation paid to executive personnel. The classification act increased the salaries of many officials from 10 to 30 per cent. Many Federal agencies, boards, and bureaus have been created within the past few years, and unfortunately many more will be created. These organizations are being filled with persons whose salaries are progressively increased. The Federal Government will soon be called upon to appropriate a very large part of the enormous sum taken from the people by the tax gatherers to pay the salaries and compensation of the hundreds of thousands of Federal employees.

When increases are made in behalf of persons holding high positions in the Government, repercussions immediately occur in all other branches of the Government service, and demands for larger salaries pour in upon Congress like a mighty and irresistible flood. If Senators will examine the Budget and the reports submitted by the various departments and executive agencies, they will be amazed to discover the tremendous sum total of the enormous amount collected as taxes from the people, which is required to meet the pay rolls of the Government.

We hear much about inadequate salaries paid to Federal employees, and yet there are hundreds of applicants for every position provided by Federal statute. If a vacancy occurs in any position, no matter how unimportant or insignificant, there is an army of applicants feverishly working to obtain the valued prize. There is no difficulty in finding persons to fill Government positions.

We recently passed a law providing 24 additional Federal judges. The scramble for these positions was not creditable to the bar, and the political influences employed to fill some of the positions call for severe condemnation. Political factions held up appointments for months, and in some instances for more than a year. Lawyers of eminence and of the highest ability were, in many instances, passed by because they did not secure the indorsement of politicians and the support of certain political factions or organizations.

Mr. President, I repeat that this is not the time to increase the salary of any Federal official. Our economic and industrial condition is not normal or stable. We are in a condition of flux, and there are symptoms which clearly indicate the approach of economic disturbances and industrial depression. The price levels throughout the country are entirely too high. Fictitious values attach to property and too often to service. There must be and there will be readjustments, and these read-

justments will involve financial dislocations and a material decline in wages and in prices of commodities. With the adjustments going on in Europe, with the efforts to balance budgets, with the struggles which will increase in severity for foreign markets and expanding trade, America will be compelled to make changes and adjustments in the industrial and economic conditions in the United States.

I repeat that these changes will have an important effect upon wages and upon our industrial and our social life. I do not contend that these conditions will affect the progress culturally, intellectually, or morally of the American people.

But these are questions which I shall not discuss further. I am only contending that it is unwise to pass any bill at this session of Congress which increases salaries. In my opinion, both the President and Congress have been too prodigal in drawing upon the Treasury. The Budget Bureau has indorsed appropriations far in excess of the needs of the Government, and Congress, in my opinion, has been too lavish and too generous in appropriations thus far made during the session of Congress. I do not like to criticize, but I am forced to the conclusion, from a somewhat intensive study of the appropriation bills and the growing demands made upon the Federal Government, that unless greater economy is practiced Congress, instead of decreasing the burdens of taxation, will be compelled to materially augment them.

Everything indicates that the appropriations for the fiscal year 1928 will exceed the appropriations which we are making for 1927 by from two hundred and fifty to five hundred millions of dollars.

Mr. President, I know that it is futile to oppose any bill which calls for increased appropriations and the creation of new executive agencies. The country is possessed by some mad frenzy which impels the people to extravagance, to waste, and to unwise and too often improper and dangerous experiments and expenditures. Congress responds to this gripping spirit which is abroad in the land. The vaults of the Treasury are insecure. Congress is reaching for the treasures hidden therein.

This bill will pass. Other measures will be enacted into law which will take millions from the Federal Treasury. Mr. President, the mine may be exhausted some day and the people will awaken to the fact that they have dissipated their heritage and have fettered themselves and succeeding generations by chains of bondage which debts and bonds and mortgages always forge.

Mr. BRATTON. Mr. President, I do not desire to consume much time in addressing myself to this subject. I favor this bill. I would have voted for the original bill as amended by the Senate committee had it been submitted to the Senate.

In reply to the argument just made by the distinguished Senator from Utah [Mr. KING] in favor of economy, I might observe that that rule did not seem to obtain about a year ago when the question of raising the salaries paid to Senators and Members of the House of Representatives was before the Senate. I offer no criticism of what was done then, because if I had been here at the time I should have voted for that bill.

Mr. KING. I hope the Senator is not charging that I voted for it, because I voted against it.

Mr. BRATTON. Not at all; but I am saying what the policy of the Senate was and what the policy of Congress was regarding an increase in salaries.

I believe, Mr. President, as the Senator from Missouri [Mr. REED] has said, that the safety of any people rests largely in an independent, in a fearless, and in a capable judiciary, guided by men of experience, men of talent, and men of courage. I do not believe that we can get men of that type and hold men of that type in this day and under the present conditions which surround us without paying an adequate compensation or an adequate wage. I believe, under the present circumstances, that this bill does nothing more than to pay to our judges a living wage. I believe the bill has merit. It is not a reckless expenditure, but it is safe and sane economy, because when we get and keep men of that type on our Federal bench and induce them to dedicate themselves to continuing the Federal judiciary of this country along the lines of independence, along lines of courage, along lines of ability, we will contribute in that way to improving the American people and perpetuating our social and economical safety and prosperity.

I very much hope that this bill will pass, because I say that it is not reckless expenditure, but it is safe economy directed along wholesome lines.

Mr. COPELAND. Mr. President, personally I am opposed to this bill because the salaries provided for are not high enough. I would be glad to see them above the figures named by the Senator from Missouri.

As one who is entirely outside of the legal profession, it may be appropriate for me to say that laymen, especially the laymen of my State, feel that all judges should be well paid. It was a matter of shock to the community when Judge Garvan left the Federal bench in New York, giving as his reason the inadequate salary of the position. He is a man of the highest type, who served the district and the country ably during his career upon the bench.

But Judge Garvan could not live and maintain his family on the salary paid him. When he resigned from the bench this matter was commented upon by practically every newspaper in my community and State. There was universal accord that there should be action on the part of Congress to elevate the salaries so that men of high type may not need to make the sacrifices they have been making.

I trust this bill will pass and that it may be the beginning of another move to give to all Federal judges what are really adequate salaries, which I feel are not provided by this bill.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri to the committee amendment.

Mr. WALSH. Mr. President, I regret exceedingly that I am obliged to oppose this bill. I am perfectly confident that the salaries paid to Federal judges in some of the States are entirely inadequate to enable them to live as others in the community of the same social standing and importance, in the work they discharge, do live. On the other hand, the salaries here provided for, so far as they apply to the country generally, are entirely disproportionate to the salaries paid to State judges.

I have here a list of the salaries paid to State judges in the various States, compiled, I believe, by the American Bar Association. A note says:

> This table no doubt contains many inaccurate statements, assembled, as it has been, from many sources, but it is believed that no salary has been understated. Corrections of errors in the table will be welcomed.
>
> A. B. A. CHAIRMAN.

I do not know how extensive are the errors in the statement, but it appears to be the most reliable information at hand. I do know that the statement so far as Montana is concerned is decidedly inaccurate, and the amount is very considerably overstated. It is said here that the judges of the Supreme Court of the State of Montana receive salaries of $7,500. The salary of a judge of our Supreme Court is limited by the Constitution to $5,000 a year. The judges secure an additional $500 as reporters of the supreme court under an act of the legislature, so that they get $5,500 a year instead of $7,500. The judges of the United States district court are to get more than two times as much as the judges of the supreme court of our State, a perfectly unjustifiable discrimination.

Mr. REED of Missouri. Under my amendment United States district judges are to get $10,000 a year.

Mr. WALSH. Very well; that is just twice as much. The conditions in my State are no different from the conditions which prevail all over the western country, indeed, all over the United States, with the exception of just a few States, to which I shall call attention. New York is one of them. The Senator from New York [Mr. COPELAND], like most of the people from that great State, always seems to regard the State of New York as the United States.

Mr. COPELAND. Is there any doubt about that? [Laughter.]

Mr. WALSH. That exhibits the feeling I was speaking about. In my judgment $5,000 is a perfectly inadequate salary for a judge of a United States court in the State of New York. It is quite disproportionate to the salaries paid by that State to the judges of the State courts. In that State the judges of the court of appeals get $13,700 a year. The judges of the appellate division and supreme court get $17,500. That is to say, the judge of the nisi prius court in the city of New York gets $17,500 a year, and the Federal judges get only $7,500 under the existing law, and will get but $10,000 under the amendment of the Senator from Missouri if it shall be agreed to and the bill shall become a law. The point I am making is this, that this bill does not meet the situation at all, as I view it. It makes the salaries altogether too large in the country generally, and too low in the great industrial States.

Mr. BRATTON. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. BRATTON. The Senator refers to the salary of the judges of the supreme court in his own State. Does the Senator think that is an adequate salary under present conditions?

Mr. WALSH. The people of that State seem to think so. If they did not, they would change it.

Mr. BRATTON. I was asking the Senator his opinion.

Mr. WALSH. We find no difficulty in getting very excellent men for justices of our supreme court. We have always had a court there of very high standing. In response to the suggestion that it is impossible to get judges of the Federal courts of

character and of standing for the salaries that are paid, and that certain judges have resigned because they could not live on the salaries, I may say that I do not believe there are above three lawyers in the State of Montana who would not take an appointment as judge of the United States district court at the present salary. One of our judges some time ago actually resigned because he conceived, and very properly, that he could make more money at the practice of the law; and he is making more money. But he was succeeded by a gentleman who is by no means his inferior as a judge, a very high-class man; but he did not have those peculiar talents and abilities which make for success at the bar.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield for a question?

Mr. WALSH. I yield to the Senator.

Mr. REED of Pennsylvania. The Senator has pointed out that the salaries now paid Federal judges are inadequate in some parts of the country, apparently, while in other parts they seem to be quite sufficient. That indicates the wisdom of adopting some sort of a sliding scale, or contriving a scale of salaries proportioned, roughly, in accordance with the cost of living, or the salaries paid by the States. The Senator will agree, will he not, that as a matter of political practicability such a bill could not be passed?

Mr. WALSH. I have heard that said, but I can not understand why it could not be done.

Mr. REED of Pennsylvania. The Senator will remember that I introduced such a bill at the last session, and it seemed to meet with the unqualified disapproval of the Judiciary Committee, because it discriminated between different parts of the country.

Mr. WALSH. I am very sure the matter was never tested out before the Judiciary Committee.

Mr. REED of Pennsylvania. As I recall it, the Senator himself was a member of the subcommittee before which we had our hearing, and while I do not recall the Senator's expression of opinion, my recollection is that most of the subcommittee were opposed to it on that ground.

Mr. WALSH. My opinion has always been well known by the committee.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. WALSH. I yield to the Senator.

Mr. GLASS. If I may ask, what would be the exact standard of pay should we adopt a sliding scale? Would the Senator from Montana assume to say that a Federal judge in New York City is worth more money than a Federal judge in Virginia, the judge in New York City being there in the midst of luxury, with all the facilities of civilization at hand, and the Federal judge in Virginia having to go into mountainous districts, and instead of holding court at one place convenient to himself and to his family, having to travel four or five hundred miles from point to point to hold court? Which would the Senator think was the more arduous and the more difficult task?

Mr. WALSH. Of course, the question of the Senator is his argument against the policy which I am advocating. I would say to the Senator, however, that it is generally believed that practicing lawyers in the city of New York make anywhere from $25,000 to $250,000 a year. In my State a man who makes $25,000 a year is at the head of the bar, and I dare say that the disproportion existing between the State of Virginia and the State of New York is the same, or at least to some extent the same. Everybody realizes that it costs more to live in the city of New York than in the city of Helena, for instance. I would like to be able to get a rental of $75 a month for a lovely home I have in Helena, but I can not get it. Probably in the city of New York it would easily lease for $3,000 a year.

Mr. GLASS. I did not suppose we were adjusting house rents, though.

Mr. WALSH. I speak of it just to illustrate that the cost of living in the large centers is unquestionably greater than it is out in the country.

Mr. GLASS. That would depend entirely upon how a man lives.

Mr. WALSH. Of course.

Mr. GLASS. I think a man can live respectably in New York just as cheaply as he can in the western district of Virginia.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. WALSH. I yield.

Mr. McKELLAR. I believe it is generally assumed that the purchasing power of the dollar is about 65 per cent of what it was before the World War. Does the Senator think that $10,000, which has a purchasing power equal to that of $6,500 before the World War, is more than a judge ought to have, taking into consideration the active duties imposed on him by the Constitution and laws of the United States? I believe that most of our Federal judges are men of ordinary means, and that most of them are dependent on their salaries. Should not every judge have a salary sufficiently large to free his mind from financial worries, and does not a man make a better judge when his salary is sufficiently large to keep his mind free of financial difficulties?

Mr. WALSH. I should say that every judge should be in that situation, whether he is a Federal judge or a State judge, In the State of Alabama it is assumed that a judge can experience that quietude of mind necessary for him properly to discharge the duties of his office on a salary of $6,500 a year. The judges of the appellate court in that State get the same salary.

In Arizona the judges of the supreme court get $5,000 a year.

In Arkansas the judges get $4,000 a year.

Mr. CARAWAY. Mr. President, the Senator's information is altogether wrong. If the rest of it is no more accurate than that, he will have to revise it.

Mr. WALSH. I introduced what I said about this table with the remark that it contains a statement to the effect that there are inaccuracies in it. It was compiled by the American Bar Association, and they themselves think it is not entirely reliable. I showed that it is not entirely reliable so far as Montana is concerned.

Mr. CARAWAY. It is not half reliable.

Mr. WALSH. I should be glad to have the item corrected so far as Arkansas is concerned.

Mr. CARAWAY. The judges of the supreme court there get $7,500.

Mr. BRATTON. Mr. President——

The VICE PRESIDENT. Does the Senator yield to the Senator from New Mexico?

Mr. WALSH. I yield.

Mr. BRATTON. The Senator will keep in mind that in many of the Western States the salaries were fixed by constitutional provision many, many years ago, when living conditions were different and the cost of living was much less than it is now. I take it the Senator gives due regard to that difference.

Mr. WALSH. Yes, of course. The same conditions exist there that exist here. The people of those States realize all the changes that have come about, just the same as we do with respect to Federal judges. I say to the Senator that that situation of affairs is not confined by any means to the western country. I will call attention to the salaries paid in the New England States.

Mr. BRATTON. Regardless of the section of the country, the salaries in a great many instances were fixed years ago by constitutional provision, and, of course, were based upon conditions as they then existed. which were entirely different from what they are now. If the people of those States had the question up now to determine, predicated upon present conditions, they would in all probability fix an entirely different salary.

Mr. WALSH. But they are moved by the same considerations that are addressed to us to change the salaries of Federal judges.

Mr. BRATTON. Exactly; to fix a reasonable scale.

Mr. REED of Pennsylvania. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Pennsylvania?

Mr. WALSH. I yield.

Mr. REED of Pennsylvania. I would like to ask the Senator's opinion on this point. In view of the apparent impossibility of adopting a sliding scale by bill, does it not bring us down to the dilemma that either we have to pay half of the Federal judges of the United States too little or else in taking care of them we have to pay half of the judges too much? Is it not to the public interest, if we must err on one side or the other because of the difference in living conditions throughout the country, to see that they all get enough and half of them get too much than it is to underpay half of them?

Mr. WALSH. I would not like to admit the premise. I would not like to admit that it is impossible to regulate this situation upon what I believe to be a proper basis.

Mr. REED of Pennsylvania. I quite agree with the Senator, and I have had the same thought. At the last session and at this session I have introduced a sliding-scale pay bill for judges, but now I have reluctantly come to the conclusion that the Senator from Missouri has the only practicable solution of the difficulty.

Mr. WALSH. The way I am troubled about it is that it is not a solution, because it does not give to the judges in the populous States salaries that are commensurate with the dig-

nity and the duties of the office as judged by the people of those States when they undertake to fix the salaries of the judges of their own courts.

Mr. REED of Pennsylvania. I quite agree with the Senator in that thought. The common pleas judge in my city of Pittsburgh gets $12,500 a year, and the Federal judge, with twice the responsibility, is to receive only $10,000 under the proposed amendment.

Mr. WALSH. Under the table before me I see that the supreme-court judges of Pennsylvania get $17,500, the judges of the superior court get $16,000, the judges of the common-pleas court get $8,000 to $12,000, and the judges of the orphans court from $8,000 to $12,000. I think it rather discreditable to the administration of the Federal laws that a judge of the Federal court in the State of Pennsylvania should get a less salary than a judge of the orphans court.

Mr. REED of Pennsylvania. I fully agree with the Senator, and I am supporting the bill because it is the only practical way of correcting that injustice.

Mr. BORAH. Mr. President, will the Senator from Montana yield to me to ask the Senator from Pennsylvania a question?

Mr. WALSH. Certainly.

Mr. BORAH. I want to ask the Senator from Pennsylvania upon what basis it is proposed to increase these salaries. Is it with the idea of getting men of greater ability or is it merely a question of meeting the increased cost of living?

Mr. REED of Pennsylvania. It is done on the dual basis of compensating the present incumbents for the rise in the cost of living, in the first place, so that their pay in the future will bring them as much in comfort as the pay in the past. That is the first point. Answering the second half of the question, it is done, as I conceive it, with the idea of preventing the increasing number of resignations because of the inability of the present judges to live on their pay.

Mr. BORAH. The first proposition applies to every salaried officer in the United States. I think that is one very serious objection to the method by which we are raising salaries by piecemeal. Leaving out the question of the dignity and confining ourselves entirely to the cost of living, judges can meet the situation far better than those who are living on a lower salary. If we are raising these salaries in order to meet the cost of living, it certainly is highly improper to select a very small number of salaried officers and consider no one else.

Mr. WADSWORTH. Mr. President, will the Senator from Montana permit me to ask the Senator from Idaho a question?

Mr. WALSH. Certainly.

Mr. WADSWORTH. Is it not a fact, however, that already we have made an increase in nearly every other branch of the Government?

Mr. BORAH. We have made it in our own salaries.

Mr. WADSWORTH. We made it in the Army, Navy, Marine Corps, Coast Guard, and Coast and Geodetic Survey.

Mr. BORAH. When did we make that increase?

Mr. WADSWORTH. We made it in the Postal Service a little over a year ago. We made it in the civil service by the reclassification act. We made it in the Army, Marine Corps, Navy, and other related services in 1922. The pay of the officers was raised 20 per cent and that of the enlisted men 40 per cent.

Mr. BORAH. We are raising those different salaries simply by piecemeal.

Mr. WADSWORTH. We could hardly frame a bill which would cover all of the employees. It is being done in as large chunks, if I may use that expression, as possible.

Mr. BORAH. Neither this bill nor any other bill I have known to be drawn is proposing an increase based on percentage of increased cost of living. They complain of their salaries, and we make a lump-sum raise, and that is all.

Mr. WADSWORTH. I think the Senator will find by an examination of the list that they average 20 to 33 per cent, which would apparently reflect an endeavor on the part of Congress to equalize salaries in such fashion as would meet the increased cost of living.

Mr. BORAH. Take the particular officials in the Department of Justice or in the judiciary department. Only yesterday there was a gentleman in my office who was complaining that the salaries of the United States district attorneys are wholly inadequate to command men of sufficient ability. The judges, of course, are, in my opinion, subject to the same rules with reference to cost of living as are United States district attorneys. We do not even cover the same department.

Mr. WALSH. I remarked that the salaries of Federal judges have been recently raised from $6,000 to $7,500.

Mr. WADSWORTH. It is perfectly apparent that that did not equalize the increased cost of living.

Mr. WALSH. It was an increase of 25 per cent.

Mr. REED of Pennsylvania. What was the date of that increase?

Mr. WALSH. My recollection is that it was 1916.

Mr. REED of Missouri. Mr. President, will the Senator yield a moment?

Mr. WALSH. Certainly.

Mr. REED of Missouri. I have here an accurate statement of the times when salaries were raised. This is contained in the report of Mr. GRAHAM, of the Committee on the Judiciary of the House, who states that the modern history of Federal judicial salaries has been as follows: Prior to 1912 the salary of the Chief Justice of the United States was $13,000. In that year it was raised to $15,000. In that same year, 1912, the salaries of the Associate Justices were raised from $12,500 to $14,500. Until 1891 the salaries of United States district judges varied in the several districts. In that year a uniform salary of $5,000 was fixed. That was 34 years ago. This salary was increased in 1903 to $6,000 and in 1919 to $7,500.

Mr. WALSH. It was 1919 instead of 1916.

Mr. REED of Missouri. Yes. In 1891 the salaries of circuit judges were fixed at $6,000. This salary was increased in 1909 to $7,000 and in 1919 to $8,000.

Mr. WALSH. I think it will be difficult to establish that the general level of the cost of living has increased very materially since 1919.

Mr. BRUCE. Mr. President, will the Senator from Montana yield to me?

Mr. WALSH. Certainly.

Mr. BRUCE. I have been endeavoring to ascertain this morning from the Department of Commerce just what the increase in the cost of living has been since 1915. I do not know whether it would be of any particular interest to the Senator or not, but the increase has been 77.9 per cent.

Mr. WALSH. I saw a statement the other day, which was apparently accurate and reliable, that the purchasing price of the dollar is about 67 cents as compared with 1913.

Mr. BRUCE. That is the estimate of the Department of Commerce which I received just a few moments ago.

Mr. SHORTRIDGE. Mr. President——

Mr. WALSH. I yield to the Senator from California.

Mr. SHORTRIDGE. Is it the theory of any Senator that salaries should be just sufficient to enable the judge to live and maintain his family? Is it his theory that we must argue and phllosophize and figure to ascertain to a nicety just how much—how little—a judge can get along with?

Mr. BORAH. May I ask the Senator a question?

Mr. WALSH. I yield.

Mr. BORAH. Is the Senator from California going to vote for the bill?

Mr. SHORTRIDGE. I am going to vote for it, regretting that the amendment has been proposed, and regretting it exceedingly.

Mr. BORAH. How much does the Senator think a judge will save out of a salary of $10,000 a year?

Mr. SHORTRIDGE. I think he will be "in the red," if I be pardoned for using that counting-house phrase. I think he will save nothing, nothing whatever. I think, moreover, he should be able to be absolutely free from financial worry, to take care of himself and his family, and to educate his children. I think he should be able to abstract himself, so to speak, from all the worries of the business world and be free from anxiety as to bills payable—all to the end that he may discharge his high functions unembarrassed and undistracted by money demands.

Mr. BORAH. That is an elysium which will never be created in this world.

Mr. SHORTRIDGE. I am hoping for it, nevertheless.

Mr. WALSH. Mr. President, I regret exceedingly that I was not permitted, although the discussion has been interesting, to develop the argument which I was endeavoring to make here, which is to the effect that for a few States the salaries, even as fixed by the bill without the amendment, are too low, but with respect to the great body of the States the salaries are too high as compared with the salaries stated of the judges of those States.

I was interrupted by my esteemed friend, the junior Senator from Virginia [Mr. GLASS], and asked to state whether the services of a Federal judge in the State of New York are worth any more than the services of a Federal judge in the State of Virginia. Of course, I do not think so. I would like to ask the Senator if he thinks that the services of the judges of the supreme court of the State of Virginia are any less valuable than the services of the judges of the appellate court of the State of New York or even of the supreme court of the State of New York? Yet the people of the State of Virginia believe, according to the statement before me, that the judges

of the court of appeals of that State are adequately recompensed by a salary of $6,000 a year against the salary of $17,500 paid to the judges of the supreme court of the State of New York.

Mr. GLASS. I would say to the Senator that, in the first place, I do not believe the people of Virginia think that the supreme court judges of that State are adequately compensated for the services they are performing; but they have not been able to induce the politicians in the legislature to take a different view of the matter. Furthermore, assuming that the General Assembly of Virginia does think that the judges are amply compensated, I would assume that the general assembly thinks so relatively, that it thinks they are as well compensated as the State could afford to compensate them. If the Senator thinks the United States is not able to pay its Federal judges larger salaries, I can very readily perceive why the Senator is opposed to increasing their compensation.

Mr. WALSH. Let me remark in answer to that that an increase of $4,000 in the salaries of the judges of the Court of Appeals of the State of Virginia would not be a very heavy burden upon the people of that State.

Mr. GLASS. No; and I think it ought to have been made long ago, for we have practitioners at the bar of the Court of Appeals of the State of Virginia who out of one case of litigation get more than the entire annual salary of a judge on that court.

Mr. WALSH. There is no doubt about that.

Mr. GLASS. We ought not to have judges sitting on the court of appeals bench of the State to decide cases presented by lawyers of such type and compensate them at a rate of only $6,000 a year.

Mr. WALSH. I referred to that circumstance only to say that I did not feel that the question which the Senator addressed to me, as to whether the services of the Federal judges in the State of New York are more valuable than are the services of a Federal judge in the State of Virginia, was very persuasive.

Mr. GLASS. I do not think the services of Federal judges in New York are more valuable than the services of Federal judges in Virginia, and I do not think their duties are as arduous. In the first place, the Federal judge in New York has to administer the same Federal law, but he is not subjected to one tithe of the hardship and inconvenience that the Federal judge in Virginia or in Kentucky is subjected to. The Federal judge in New York holds court at one place, and one place only, whereas the Federal judge in Virginia and the Federal judge in Kentucky have to go from place to place. I presume that the judge of the Federal court for the western district of Virginia is required to hold court in 10 different places and to subject himself to great inconvenience going from one place to another.

Mr. WALSH. The Senator from Virginia need not labor to convince me of that.

Mr. GLASS. Then why should the judge in Virginia be paid less than the judge in New York?

Mr. WALSH. I stated that I fully agree with the Senator that the work is precisely as arduous and just exactly as valuable, but services are not paid for upon that basis. A lawyer in the city of New York will get ten times the compensation that a lawyer in Montana will get for exactly the same work.

Mr. GLASS. Yes; but the Government does not pay it.

Mr. WALSH. No; the Government does not pay it. We can not fix the salaries on any such basis as the arduousness of the work, although it is a proper element to be taken into consideration.

Mr. GLASS. I do not think the salaries here can be fixed on a sliding scale.

Mr. CUMMINS. Mr. President, will the Senator from Montana yield to me?

Mr. WALSH. I yield to the Senator from Iowa.

Mr. CUMMINS. I think I agree with the Senator from Montana with respect to the standard that ought to be applied in fixing the compensation of public officers. I think he stated a moment ago, in substance, that the standard ought to be the value of the service. In computing the value of the service there comes into review the cost of living, the withdrawal from the activities of the profession, and all such considerations as those; but does the Senator from Montana believe that, if the States do not properly appraise the value of the service which their own judiciary is rendering, the Congress of the United States ought to be bound by such action or ought to refrain from giving its judges compensation for the value of the services they render because the States have not done so or do not do so?

Mr. WALSH. Certainly not. If I were able to admit the premise of the Senator from Iowa that the States do not compensate their judges adequately, of course, that should not be used as a basis, but I am calling attention to the fact that, except in the case of four States, the States invariably pay their judges salaries less than those proposed to be fixed in this bill; and I am not ready to admit that 44 out of 48 States do not adequately pay their judges.

Mr. CUMMINS. Possibly, then, I did not understand the Senator from Montana in the beginning of his address. I thought he stated that the Federal judiciary were not adequately compensated at the present time.

Mr. WALSH. I made no such statement. I insist that, judged by the standards set up by the people of the communities in which they exercise their functions, they are adequately paid at $7,500 a year in the greater number of the States. Then, I assert that, even under this bill, they are not adequately paid, judged by the same standard, in a half dozen States.

Mr. CUMMINS. I agree with the Senator from Montana entirely that this is rather a crude approach toward doing justice; but I am not willing to admit that the United States is bound or should be governed by the view of the several States in fixing the compensation of their judges.

Mr. WALSH. The Senator from Iowa must not assume that I think so, either, but I do think that it is exceedingly persuasive when we find that situation of affairs existing in all but a few of the States of the Union.

Mr. CUMMINS. I know that in my own State the judges of the supreme court of the State receive, as I remember, $6,000 a year.

Mr. WALSH. That is what the schedule shows.

Mr. CUMMINS. There is not a lawyer in the State, and I do not believe there is an intelligent man in the State, who does not recognize and admit that the compensation paid to the judges of the supreme court of my State is inadequate. The judges of the courts of original jurisdiction in my State, as I remember, are paid $4,000 a year. Everybody knows that that is inadequate compensation. The result generally is that the men who are best qualified to become judges would not and will not accept judicial positions.

Mr. WALSH. The judges of trial courts in my State get $3,600 a year, and there is not a fault to be found with the judges of those trial courts. I will refer particularly to the court at my home in Helena. There has never been a time when there have not been men of capacity quite equal to the task imposed upon the bench there. I do not mean to say that the salary paid is sufficient, but that is the situation.

Mr. CUMMINS. Mr. President, I do not want by anything I have said to be understood as disparaging the judges of my own State. I think they are all good judges; but, in our nisi prius courts, we either have to take young men who have not, as yet, acquired a practice of great extent, or we must take old men who have not been entirely successful in the practice of the profession.

Mr. WALSH. If the Senator will pardon me, I do not quite agree with that, because the Senator will recall, I am sure, if he charges his memory, that at practically every bar there will be found men of fine legal minds, careful students, bookworms, so to speak, who have not really a faculty for getting business. Everybody recognizes their ability, and those men are quite generally sought out for judicial positions. They are men of calm temperament, of judicial mind, students, who, for some reason or other, do not get very much business.

Mr. CUMMINS. Is it not a pity that a man of that kind is asked to render service to the public for $4,000 a year?

Mr. WALSH. It is more than he would earn in any other way.

Mr. CUMMINS. I am not quite prepared to admit that.

Mr. BORAH. Mr. President——

Mr. WALSH. I yield to the Senator from Idaho.

Mr. BORAH. We never could fix salaries at a figure which would command the services of those men who are capable of making great fees in their practice, unless they are men who are willing to take the honor as a compensation for the money which they would otherwise earn. But here we are proposing to fix a salary of $10,000. Does the Senator think that such a salary will call from the practice of the profession a man who is earning $50,000 or $100,000 a year to take the place on the bench?

Mr. CUMMINS. I do not.

Mr. BORAH. Certainly not; unless for the reason I have stated.

Mr. CUMMINS. I am not so optimistic as that; but I believe that the compensation ought to be just and it ought to be the equivalent of the service which the judge renders the

public. The value of that service, of course, is to be determined by a great many considerations, not only the competency and the integrity of the particular judge but the circumstances and conditions under which he lives.

Mr. WALSH. Mr. President, I wish to call attention to the fact that the condition of which I speak is by no means confined to the western section with which I am more or less familiar; it obtains all over the country. Let us take the South, for instance: The judges of the Court of Appeals of Kentucky receive $5,000 a year, and the circuit judges $4,200 a year. Let us take Alabama; the judges of the Supreme Court of Alabama receive $6,500. Let us take South Carolina—and I take these States at random—the judges of the supreme court get $4,500, and of the circuit court, $4,000. The State of California, so ably represented by the Senator who interrogated me a few moments ago, pays to the judges of its supreme court $8,000 a year, to the judges of its court of appeals $7,000 a year, and to the judges of its superior court $7,000 a year.

Mr. CARAWAY. And, Mr. President, I dare say the judges of the supreme courts of all the States mentioned are the equals mentally and otherwise of any Federal judge who may be sent into those States.

Mr. WALSH. I do not doubt it at all.

Mr. BRATTON. Mr. President, will the Senator from Montana yield?

Mr. WALSH. Yes.

Mr. BRATTON. The Senator never had the experience of trying to live on one of those $3,600 or $5,000 a year salaries on the bench, did he?

Mr. WALSH. No; I never had the honor to be a judge.

Mr. BRATTON. If I may be pardoned a personal reference, I tried it for four years on a salary of $5,250 and for nearly two years on a salary of $6,000 a year, but, despite economy and frugality, I left the bench a much poorer man than when I started.

Mr. WALSH. I have no doubt about that.

Mr. BRATTON. And any other man who tries it will have the same experience. So we must get a man who has independent means and who enters upon the work of the bench regardless of his ability or we must get a man who serves at an inadequate wage.

Mr. WALSH. I am very sure if the Senator was not capable of earning more than $5,000 a year he never would be in this body.

Mr. BRATTON. I thank the Senator for the compliment, but I know from experience that those judges in the West and the South also, to which the Senator from Montana referred, necessarily are underpaid, and it occurs to me that that is harmful and strikes at the very heart of the judiciary of this country.

Mr. WALSH. Let us go to New England.

Mr. BORAH. Mr. President, the reasons for the able Senator from New Mexico leaving his profession and going on the bench and accepting that salary are also reasons which enter into the going upon the bench of every man who is fit to sit on the bench. There is something in this besides salary.

Mr. BRATTON. If the Senator will pardon me, the Senator from Iowa said that we have either got to get young men without experience or old men. In my State it was said that they had one without experience; that was the weakness there.

Mr. SHORTRIDGE. But not one without knowledge.

Mr. WALSH. Let us pass to the New England section; let us take the State of Maine. The judges of the supreme judicial court get $6,000 and of the superior court $4,000. Take Connecticut; the judges of the Connecticut supreme court of errors get $9,000 and of the supreme court $9,000. Those judges sit in a community adjacent to the city of New York. Let us take Vermont. The judges of the supreme court get $5,000 and of the superior court $5,000.

Take an interior State, Delaware; the judges of the supreme court get $7,500 a year.

Now, let me call your attention to those States in which the salaries are equal to or greater than that which the Federal judges would receive under the bill now under consideration. How many are there? There are the States of Illinois, Massachusetts, New Jersey, New York, and Pennsylvania. There are five States, and five States only, where the judges of the supreme court get as much as or more than it is proposed now to pay to the judges of the Federal courts all over the United States.

In the State of Illinois the judges of the supreme court get $15,000 a year and the judges of the appellate court $12,000. The judges of the Cook County Appellate Court get $15,000. I think the Federal judge in the city of Chicago ought to be paid a salary somewhat related to the salary that is paid to the trial judge under the State jurisdiction there.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER (Mr. BLEASE in the chair). Does the Senator from Montana yield to the Senator from California?

Mr. WALSH. I do.

Mr. SHORTRIDGE. I suppose the Senator carries along in his mind the fact that a United States district judge appointed for a given district may be called to any other district in the United States. He may be called to serve on the circuit bench. In other words, he is not a localized judge, but is a United States judge.

With great respect, I can not see the force of the argument that a district judge of one of the New York districts is more valuable or that his salary should be greater than that of the district judge of Montana or of Idaho or of New Mexico. They are Federal judges; they are United States judges; they are called or may be sent, indeed, from one district to another, from one circuit to another. Wherefore, I ask, does the Senator carry along in his mind the fact that the district judge is not a local judge confined to the district for which he is originally appointed?

Mr. WALSH. Why, yes; I have that in mind; and the judge of the State court is subject in exactly the same way to be sent anywhere in the State. That is the usual rule. That is the rule in my State.

Mr. SHORTRIDGE. I take it, too, that the nisi prius judges exercising common-law jurisdiction in the several counties or districts of a given State generally receive the same salary, do they not?

Mr. WALSH. Yes; the same salary; and the salaries here would be substantially different only in five States.

Mr. SHORTRIDGE. The point I wish to emphasize is that a district judge appointed for the southern district of California, for example, is to-day sitting in New York; he may be to-morrow in Chicago; and I recall so well that the great judge from the Senator's State often comes to California and there sits and dispenses law and justice. Wherefore the thought is always in my mind that under our present law—recently amended, as we all know—a district judge, though a resident of a given district—and, indeed, he must be a resident of that district as of the time when appointed—is nevertheless a Federal judge who may be called to all parts of the Union to perform the judicial functions, and therefore that no judge appointed for the southern district of New York is entitled to any greater salary than a judge appointed to sit primarily in Idaho or in the State of Washington or in the State of California.

If I may add just a word, and then I shall be through, I do not think that the able Senator from Montana is advancing very much the argument against this bill by emphasizing the salaries that are paid by the several States. The question is, what is right for us to do?

Mr. WALSH. I am rarely persuasive with the Senator from California.

Mr. SHORTRIDGE. The Senator from Montana is persuasive and usually convincing; but, with great respect, I am neither persuaded nor convinced up to this minute.

Mr. WALSH. Yes; it is true, Mr. President, that the judges of the Federal courts may be assigned, under recent law, anywhere in the United States, and exchanges are not infrequently made, but that is a perfectly incidental matter.

Mr. NORRIS. Mr. President, may I interrupt the Senator there?

Mr. WALSH. I yield.

Mr. NORRIS. I call the Senator's attention to the fact that when that occurs the expenses of the judge are paid, in addition to his salary.

Mr. WALSH. Oh, yes.

I have given the figures in Illinois. Next comes Massachusetts. The judges of the supreme judicial court of Massachusetts gets $12,000 a year and the judges of the superior court $10,000.

Then New Jersey. The judges of the supreme court get $18,000; the vice chancellors get $18,000; the circuit judges get $16,000; and the lay judges $40 a day while sitting.

It will be observed, Mr. President, that Connecticut, New York, and New Jersey pay higher salaries—Connecticut not quite as high as the salary provided by this bill for judges of the Federal court—New York and New Jersey paying higher salaries.

Mr. COPELAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from New York?

Mr. WALSH. I do.

Mr. COPELAND. What figures did the Senator give for New York?

Mr. WALSH. The court of appeals, $13,700; the appellate division and supreme court, $17,500 in departments 1 and 2 and $10,000 in departments 3 and 4. That is what I have.

Mr. COPELAND. The Legislature of New York this year raised those appellate salaries to $22,500.

Mr. WALSH. That strengthens the argument I am making that this bill is no solution at all of the problem. The judges of the Federal court in the State of New York get $10,000 a year, and the judges of the State courts sitting right alongside of them and doing exactly the same kind of work get $22,500.

Mr. SHORTRIDGE. Mr. President, what is the amount that the Senator gave for California?

Mr. WALSH. For California, the supreme court $8,000, the court of appeals $7,000, the superior court $7,000.

Mr. SHORTRIDGE. A memorandum has just now been handed to me to the effect that by statute of 1925 the salaries of the supreme court judges in California were increased to $10,000.

Mr. WALSH. Finally, Pennsylvania. In Pennsylvania the judges of the supreme court get $17,500, the judges of the superior court $16,000, the judges of the common pleas courts get $8,000 to $12,000, and the judges of the orphans court $8,000 to $12,000.

I want to conclude with Missouri. The judges of the Supreme Court of the State of Missouri get $7,500 a year; the judges of the court of appeals get $6,000, the judges of the circuit court get $3,000 to $5,000 a year, and the judges of the St. Louis circuit court get $8,000 a year. I never heard that the State of Missouri was in want of quite competent judges of its supreme court.

Mr. REED of Missouri. Mr. President, I might say to the Senator that as to the supreme court judges and certain of the other judges, I believe, there is a constitutional inhibition; and in order to get away from it as far as possible the supreme court judges have been named on a certain commission, which enables them to draw an additional salary. That is likewise true of the circuit judges of some of the counties, that they have been named on certain commissions. For instance, in my own home county, where we have 10 circuit judges, I believe, they are made jury commissioners, and, I think, draw $1,500 a year in addition to their stated salaries. I want to say further that I have not any doubt in the world that if Missouri were to adopt a new constitution it would change the salaries very greatly. My colleague [Mr. WILLIAMS] was a member of the recent constitutional convention and can speak of that.

Mr. WILLIAMS. That is quite correct. Of course the judges of our supreme court live at Jefferson City, Mo., which is a comparatively small city of some ten or twelve thousand people. They live in the supreme-court building. They have quarters there with rooms, and so forth, where they may live if they desire. The judges of the circuit court—that is, our nisi prius court—in St. Louis are paid not only by the State but by the city, and the salary is something more than $8,000.

Our United States district judges live at St. Louis and at Kansas City, a judge at each place, and they have to travel, of course, from St. Louis to the other points of the district where they practice; and the same is true of Kansas City.

It is true, as my colleague has said, that the constitution of our State must be in technical terms violated in order to permit our supreme-court judges to receive as much as $7,500 a year, and the living expenses are not so heavy. The same thing is true of our circuit judges—that is, our nisi prius judges—out in the State. I think the constitutional limitation of the salary of the circuit judges in our State is $2,000 a year; but they receive these additional salaries for statutory purposes, which permit them to get a living. The approximation in St. Louis of $8,300 a year for circuit judges is close to the $10,000 which it is proposed to give the United States district judges under this bill.

Mr. WALSH. I merely desire to say, in conclusion, that some information which has just come to me confirms the report of this schedule concerning salaries in the State of Montana, by reason of the fact that the salaries of judges of the supreme court have been raised to $7,500 and the salaries of the district judges to $4,800.

I ask unanimous consent that this schedule may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

SALARIES OF JUDGES IN VARIOUS STATES

Alabama: Supreme court, $6,500; appellate court, $6,500; circuit court, $4,000; some few counties have authority to add to salaries, Mobile, $3,000; Montgomery, $2,000; Jefferson, $2,400; and Tuscaloosa, $1,200.

Arizona: Supreme court, $5,000; superior court, $3,500 to $4,500.

Arkansas: Supreme court, $4,000; circuit court, $3,000; chancery court, $3,000.

California: Supreme court, $8,000; court of appeals, $7,000; superior court, $7,000.

Colorado: Supreme court, $5,000; district court, $4,000.

Connecticut: Supreme court of errors, $9,000; superior court, $9,000; court of common pleas, $7,000.

Delaware: Supreme court, $7,500; chancellor, $7,500.

Florida: Supreme court, $5,500; circuit court, $5,000.

Georgia: Supreme court, $7,000; court of appeals, $7,000; superior court, $5,000; certain counties may add additional $3,000.

Idaho: Supreme court, $5,000; district court, $4,000.

Illinois: Supreme court, $15,000; appellate court, $12,000; circuit court, $6,500. Cook County (Chicago) appellate court, $15,000; circuit court, $15,000; superior court, $15,000; municipal court, $9,000.

Indiana: Supreme court, $7,500; appellate court, $7,500; circuit court $5,000 to $7,000.

Iowa: Supreme court, $6,000; district court, $4,000.

Kansas: Supreme court, $6,000; district court, $4,000.

Kentucky: Court of appeals, $5,000; circuit judges, $4,200; in Jefferson, Fayette, Campbell, and Kenton Counties circuit judges $3,000 from State plus $2,000 from county.

Louisiana: Supreme court, $8,000; court of appeals, $6,000; district court, $4,000 to $5,000.

Maine: Supreme judicial court, $6,000; superior court, $4,000.

Maryland: Court of appeals, $8,500; circuit court, $5,750; supreme bench of Baltimore city, $7,375.

Massachusetts: Supreme judicial court, $12,000; superior court, $10,000.

Michigan: Supreme court, $10,000; circuit court, $5,000 to $11,250.

Minnesota: Supreme court, $7,000; district court, $4,800; counties having 75,000 population may add $1,500. Counties with area over 15,000 square miles may add $1,500.

Mississippi: Supreme court, $6,500; circuit court, $4,000; chancery court, $4,000.

Missouri: Supreme court, $7,500; court of appeals, $6,000; circuit court, $3,000 to $5,000. St. Louis circuit court, $8,000.

Montana: Supreme court, $7,500; district court, $4,800.

Nebraska: Supreme court, $7,500; district court, $5,000.

Nevada: Supreme court, $6,000; district court, $4,500 and $5,000.

New Hampshire: Supreme court, $6,000; superior court, $6,000.

New Jersey: Supreme court, $18,000; vice chancellors, $18,000; circuit judges, $16,000; lay judges, $40 per day of court sitting or writing opinions.

New Mexico: Supreme court, $6,000; district court, $6,000.

New York: Court of appeals, $13,700; appellate division and supreme court, $17,500 in departments 1 and 2; $10,000 in departments 3 and 4.

North Carolina: Supreme court, $6,000; superior court, $5,000 (plus $1,250 traveling expenses).

North Dakota: Supreme court, $5,500; district court, $4,000.

Ohio: Supreme court, $8,500; appellate court, $8,000; court of common pleas, $3,000 plus $25 for each 1,000 of population up to 120,000, and $5 for each 1,000 over 120,000, in no case exceeding $5,000.

Oklahoma: Supreme court, $6,000; criminal court of appeals, $6,000; district court, $4,000.

Oregon: Supreme court, $5,250; circuit court, $4,000; counties having 100,000 population and over may pay $1,500 additional.

Pennsylvania: Supreme court, $17,500; superior court, $16,000; common pleas, $8,000 to $12,000; orphans court, $8,000 to $12,000.

Rhode Island: Supreme court, $8,000; superior court, $7,500.

South Carolina: Supreme court, $4,500; circuit court, $4,000.

South Dakota: Supreme court, $3,000; circuit court, $2,500.

Tennessee: Supreme court, $5,500; court of civic appeals, $5,500; chancery court, $4,000; circuit court, $4,000.

Texas: Supreme court, $6,500; court of civil appeals, $5,000; court of criminal appeals, $6,500; district court, $4,000.

Utah: Supreme court, $5,000; district court, $4,000.

Vermont: Supreme court, $5,000; superior court, $5,000.

Virginia: Supreme court of appeals, $6,000; circuit court, $3,600; city court, $3,000 to $3,500; counties and cities may supplement salaries.

Washington: Supreme court, $7,000; superior court, $6,000 in counties over 210,000 population; $5,000 in counties over 125,000; and $4,500 in remaining districts.

West Virginia: Supreme court of appeals, $8,000; circuit court, $3,300 to $6,000.

Wisconsin: Supreme court, $8,500; circuit court, $6,500.

Wyoming: Supreme court, $7,000; district court, $6,500.

FEDERAL JUDGES

$14,500, United States Supreme Court.
$8,500, circuit court of appeals.
$8,500, Court of Appeals District of Columbia.
$8,500, Court of Customs Appeals.
$7,500, United States district judges.
$7,500, Supreme Court of District of Columbia.
$7,500, Court of Claims.
$7,500, Territorial district judges—Alaska, Canal Zone, Hawaii, and Porto Rico.

NOTE.—This table no doubt contains many inaccurate statements, assembled as it has been from many sources, but it is believed that no salary has been understated. Corrections of errors in the table will be welcomed. A. B. A., chairman.

A convenient grouping of the salaries of the State supreme court judges (283 in number) can be shown by taking the conventional, unofficial system, which works out as follows:

TABLE VII—*Reporter system*

Reporter	Average salary
1. Northeastern	$11,572.00
2. Atlantic	10,140.00
3. Northwestern	7,079.00
4. Southern	6,608.00
5. Southeastern	6,393.00
6. Pacific	6,113.00
7. Southwestern	5,722.00
Average for 283 justices	7,701.06

Mr. GEORGE. Mr. President, I have no disposition to discuss this matter, and I am not going to delay a vote on the bill, but I want to voice my protest now against the fixing of salaries of Federal officers on a sliding scale, whether we are dealing with judges, postal employees, Army and Navy officials, or what not, and I want to put it upon this ground:

The tendency of legislation in this country for a half century has been to build up the large centers at the expense of the back places in the United States. In my judgment, no more pernicious principle could be introduced into Federal legislation than the scaling of the salaries of high Federal officials on the basis of the town or city in which the Federal official lives, and I am opposed to it absolutely.

Not only did the Senator from Missouri accept this amendment but in my judgment it is a wise amendment which he accepted. There is a principle involved in this legislation that is much broader than the legislation itself, and I merely want to go on record in regard to it. So far as these salaries are concerned, I shall vote for this bill without the slightest hesitation. It may be that the salaries are in some instances inadequate, but they are certainly not excessive in any instance.

Mr. TRAMMELL. Mr. President, in view of the fact that some days ago, when this matter came up, I voiced opposition to the bill as it stood at that time, I desire to state that since the bill has been amended so that the increases for district and circuit judges are only approximately $2,500 a year I shall not further oppose that particular feature of the bill. I did think at first, when the proposed increases ran from $5,000 to $6,500, that they were too much.

That has now been changed by amendment as far as the district and circuit courts are concerned, but the large increase still obtains in regard to the Supreme Court. The salaries of the justices of the Supreme Court were increased some few years ago from $12,000 a year to $14,000 a year, and a further increase is proposed from $14,000 a year, as at present, to $20,500 for the Chief Justice and to $20,000 for the Associate Justices, making an increase within a period of three or four years since the salaries were increased before of $6,000, which will mean an increase of $8,000 a year to the Associate Justices of the Supreme Court and the Chief Justice.

While I have very high regard for the Supreme Court—indeed, of all our judiciary I must say that the members of the Supreme Court do not perform any greater amount of work than do district judges or circuit court judges, and the work is no more taxing. In fact, I dare say that in a very large number of instances the district judges and the circuit court judges perform a greater amount of work than is performed by the Supreme Court justices.

I shall propose to perfect the substitute by striking out "$21,500," in line 5, which is fixed as the salary of the Chief Justice, making it $18,500.

Mr. ASHURST. On what line?

Mr. TRAMMELL. In line 5 of the proposed substitute, I move to strike out "$21,500" and insert in lieu thereof "$18,500"; and in line 6, to strike out "$20,000" and insert "$18,000." I think the raises then will be commensurate with the other raises carried in the substitute which we are now considering for district judges and circuit judges. I propose that amendment.

The PRESIDING OFFICER. The Secretary will state the amendment to the amendment.

The LEGISLATIVE CLERK. On line 5 of the substitute, strike out "$21,500" and insert in lieu thereof "$18,500."

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The clerk will state the next amendment to the amendment.

The LEGISLATIVE CLERK. On line 6, strike out "$20,000" and insert in lieu thereof "$18,000."

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment offered by the Senator from Missouri in the nature of a substitute for the amendment of the committee.

Mr. NORRIS. Mr. President, I do not desire to delay a vote on the bill. I think it is fair that we should vote on it. We will have to vote on it eventually, and I am willing to have a vote now. I think, however, we ought to have a roll call on the passage of a bill of such importance. I do not care to have one on the amendment that has been offered, but on the final passage of the bill we ought to have a roll call.

Mr. President, I want to add just a word. While the arguments pro and con have been very ably presented, there is one thing that has been omitted, as I look at it, which should be called to the attention of the Senate and placed in the RECORD. When Federal judges are transferred from place to place, performing the work of other judges, their expenses are paid. In the performance of their official acts their traveling expenses, their railroad fare, their hotel bills, are paid. They are appointed for life. They do not have the expense connected with campaigns which candidates for a judgeship in State courts have. Therefore, it seems to me, they are not put to the same expense to which State judges are put in the same locality and under the same circumstances; and if there is any difference in the salaries, it is the State judges who ought to have the largest salaries.

I concede that in some parts of the country, comparatively small, the judges' salaries ought to be increased. There are other portions of the country where the method of the selection of Federal judges is in a great many instances very questionable. That applies to a section of the country with which I am not personally familiar, but I have talked with many Senators of the method by which judges are selected in some portions of the country, and it is not always true that high-class man are appointed, but inferior men are often put on the Federal bench through the methods employed.

Mr. WALSH. Mr. President, when the Senator institutes a comparison between the expenses to which the State judges are put in successive campaigns for reelection, and that sort of thing, with the expenses of Federal judges, who do not have that item to look after, he should not forget also that the Federal judges are pensioned after they arrive at a retiring age of 70 years.

Mr. NORRIS. That is another thing. They are pensioned for life.

With the understanding that we can have a roll call vote on the final passage of the bill, I care to say nothing further.

The PRESIDING OFFICER. The question now is on agreeing to the amendment offered by the Senator from Missouri in the nature of a substitute for the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDING OFFICER. If there be no further amendment as in Committee of the Whole, the bill will be reported to the Senate as amended.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. NORRIS. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. BRATTON (when his name was called). I have a general pair with the junior Senator from Indiana [Mr. ROBINSON]. I understand that if he were present he would vote as I intend to vote, and I will therefore vote. I vote "yea."

Mr. CURTIS (when his name was called). I have a pair for the day with the senior Senator from Nevada [Mr. PITTMAN]. Not knowing how he would vote, I withhold my vote.

Mr. FERRIS (when his name was called). I have a pair with the senior Senator from Pennsylvania [Mr. PEPPER]. I am informed that if he were present he would vote as I shall vote. I therefore vote. I vote "yea."

Mr. FLETCHER (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. DU PONT]. I am advised that, if present, he would vote as I shall vote, and I vote "yea."

Mr. GILLETT (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. UNDERWOOD]. I am not sure how the Senator from Alabama would vote on this question, but I feel it quite likely that he would vote as I shall vote. I will therefore take the responsibility of voting. I vote "yea."

Mr. SIMMONS (when his name was called). I have a general pair with the senior Senator from Oklahoma [Mr. HARRELD]. I transfer my pair to the senior Senator from Rhode Island [Mr. GERRY] and vote "yea."

Mr. WADSWORTH (when his name was called). On this question I have a pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the senior Senator from Vermont [Mr. GREENE] and vote "yea."

The roll call was concluded.

Mr. WALSH. I desire to announce that the senior Senator from Nevada [Mr. PITTMAN] is absent on account of illness.

Mr. KING (after having voted in the negative). Unfortunately I have a pair upon this vote with the Senator from New Jersey [Mr. EDWARDS], and in his absence I am compelled to withdraw my vote. It is needless to say that if I were permitted to vote I should vote "nay."

Mr. HARRISON. I have a pair with the junior Senator from Oklahoma [Mr. PINE]. Not being able to get a transfer, I withhold my vote.

Mr. MAYFIELD. The senior Senator from West Virginia [Mr. NEELY] is necessarily detained from the Senate. If he were present, he would vote "yea."

Mr. OVERMAN (after having voted in the affirmative). May I inquire whether the senior Senator from Wyoming [Mr. WARREN] has voted?

The PRESIDING OFFICER. He has not voted.

Mr. OVERMAN. I transfer my pair with the senior Senator from Wyoming to the senior Senator from Alabama [Mr. UNDERWOOD] and let my vote stand.

Mr. JONES of New Mexico (after having voted in the affirmative). I have a general pair with the senior Senator from Maine [Mr. FERNALD]. I am advised that if he were present he would vote as I have voted, and I therefore permit my vote to stand.

The result was announced—yeas 66, nays 8, as follows:

YEAS—66

Ashurst	Fess	McKellar	Sheppard
Bayard	Fletcher	McLean	Shipstead
Bingham	Frazier	McMaster	Shortridge
Bratton	George	McNary	Simmons
Broussard	Gillett	Mayfield	Smith
Bruce	Glass	Means	Stanfield
Butler	Goff	Metcalf	Steck
Cameron	Gooding	Moses	Stephens
Copeland	Hale	Nye	Swanson
Couzens	Heflin	Oddie	Tyson
Cummins	Johnson	Overman	Wadsworth
Dale	Jones, N. Mex.	Phipps	Watson
Deneen	Jones, Wash.	Ransdell	Wheeler
Dill	Kendrick	Reed, Mo.	Williams
Edge	Keyes	Reed, Pa.	Willis
Ernst	La Follette	Sackett	
Ferris	Lenroot	Schall	

NAYS—8

Blease	Caraway	Howell	Trammell
Borah	Harris	Norris	Walsh

NOT VOTING—22

Capper	Greene	Norbeck	Smoot
Curtis	Harreld	Pepper	Underwood
du Pont	Harrison	Pine	Warren
Edwards	King	Pittman	Weller
Fernald	McKinley	Robinson, Ark.	
Gerry	Neely	Robinson, Ind.	

So the bill was passed.

RAILWAY CARRIERS AND THEIR EMPLOYEES

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The LEGISLATIVE CLERK. A bill (H. R. 9463) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H. R. 10244. An act to extend the time for the construction of a bridge across the Fox River in the State of Illinois on State Road No. 18, connecting the villages of Yorkville and Bristol in said county; and

H. R. 10246. An act to authorize the commissioners of McKean County, Pa., or their successors in office, to construct a bridge across the Allegheny River at a certain location where a highway known as State Highway Route No. 211 crosses said river at a location within the limits of the borough of Eldred or not distant more than one-half mile north of said borough of Eldred, McKean County, Pa.

The message also announced that the House had severally agreed to the amendments of the Senate to the following bills of the House:

H. R. 4034. An act granting the consent of Congress to Texas-Coahuila Bridge Co. for construction of a bridge across the Rio Grande between Eagle Pass, Tex., and Piedras Negras, Mexico;

H. R. 5691. An act granting the consent of Congress to Charles L. Moss, A. E. Harris, and T. C. Shattuck, of Duncan, Okla., to construct a bridge across Red River at a point between the States of Texas and Oklahoma where the ninety-eighth meridian crosses said Red River;

H. R. 10169. An act granting the consent of Congress to the Gallia County Ohio River Bridge Co. and its successors and assigns to construct a bridge across the Ohio River at or near Gallipolis, Ohio; and

H. R. 10470. An act granting the consent of Congress to the city of Little Falls, Minn., to construct a bridge across the Mississippi River at or near the southeast corner of lot 3, section 34, township 41 north, range 32 west.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 10055) to amend section 77 of the Judicial Code to create a middle district in the State of Georgia, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GRAHAM, Mr. DYER, and Mr. SUMNERS of Texas were appointed managers on the part of the House at the conference.

HOUSE BILLS REFERRED

The following bills were severally read twice by title and referred to the Committee on Military Affairs:

H. R. 9178. An act to amend section 12 of the act approved June 10, 1922, so as to authorize payment of actual expenses for travel under orders in Alaska;

H. R. 10504. An act to amend the act approved June 4, 1897, by authorizing an increase in the cost of lands to be embraced in the Shiloh National Military Park, Pittsburg Landing, Tenn.;

H. R. 10827. An act to provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes; and

H. R. 11511. An act to amend in certain particulars the national defense act of June 3, 1916, as amended, and for other purposes.

HOUSE BILLS TO THE CALENDAR

The bill (H. R. 5223) to authorize disbursing officers of the Army, Navy, and Marine Corps to designate deputies was read twice by its title.

The bill (H. R. 4547) to establish a department of economics, government, and history at the United States Military Academy, at West Point, N. Y., and to amend chapter 174 of the act of Congress of April 19, 1910, entitled "An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1911, and for other purposes," was read twice by its title.

Mr. WADSWORTH. I ask unanimous consent that the two bills just read may go to the calendar without reference to the Committee on Military Affairs. The Committee on Military Affairs has already reported duplicate bills, which are upon the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. WALSH. Are the bills identical?

Mr. WADSWORTH. They are.

The PRESIDING OFFICER. The bills will be placed on the calendar.

The bill (H. R. 8592) to further amend section 125 of the national defense act of June 3, 1916, as amended, was read twice by its title.

The bill (H. R. 9218) to authorize the Secretary of War to exchange deteriorated and unserviceable ammunition and components, and for other purposes, was read twice by its title.

Mr. WADSWORTH. I make the same request with respect to these bills. The Senate Committee on Military Affairs has reported similar bills.

The PRESIDING OFFICER. Without objection, the bills will be placed on the calendar.

FIRST LIEUT. HARRY L. ROGERS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S.

37, for the relief of First Lieut. Harry L. Rogers, jr., which was, on page 1, line 6, to strike out "$700" and insert "$902.63."

Mr. MEANS. I move that the Senate agree to the amendment proposed by the House.

Mr. KING. What is the amendment?

Mr. MEANS. I will explain it. It makes an increase of $200 over the amount allowed by the Senate. I really think the House considered it more fully than the Senate and they raised the amount about $200.

The PRESIDING OFFICER. The question is on the motion of the Senator from Colorado that the Senate agree to the House amendment.

The motion was agreed to.

MONDAY EVENING SESSION

Mr. CURTIS. Mr. President, I ask unanimous consent for the entrance of the following unanimous-consent order. I have spoken to the Senator from Arizona [Mr. ASHURST] and several other Senators in regard to it, and I think there will be no objection to it.

The PRESIDING OFFICER. The clerk will read the proposed unanimous-consent agreement.

The legislative clerk read as follows:

Ordered (by unanimous consent), That upon Monday, May 10, at not later than 5.30 o'clock p. m., the Senate take a recess until 8 p. m., and that at the evening session the calendar be taken up for the consideration of unobjected bills on said calendar, and that when the calendar is concluded for unobjected bills the calendar be called for the consideration of bills under Rule VIII; that the evening session shall continue until not later than 11 o'clock p. m.

Mr. FLETCHER. Mr. President, may I ask the Senator if that means we will not have the calendar before Monday night?

Mr. CURTIS. We will have a call of the calendar until 2 o'clock on Monday unless the morning hour is otherwise taken up.

The PRESIDING OFFICER. Is there objection to the proposed unanimous-consent agreement? There being no objection it is entered into.

EASEMENTS UPON PUBLIC MILITARY RESERVATIONS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1482) to authorize the Secretary of War to grant easements in and upon public military reservations and other lands under his control, which was, on page 2, after line 14, to insert:

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. WADSWORTH. I move that the Senate concur in the House amendment. It is corrective in character.

The motion was agreed to.

BOARD OF COMMISSIONERS OF UNITED STATES SOLDIERS' HOME

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1484) to amend section 1, act of March 4, 1909 (sundry civil act), so as to make the Chief of Finance of the Army a member of the Board of Commissioners of the United States Soldiers' Home, which was on page 1, line 8, after the word "surgeon," to insert the word "general."

Mr. WADSWORTH. The amendment is the correction of a typographical error, and I move that the Senate concur in the House amendment.

The motion was agreed to.

ADALINE WHITE

Mr. CURTIS. I ask unanimous consent that the Committee on Claims be discharged from the further consideration of the bill (S. 254) for the relief of Adaline White, and that the bill be referred to the Committee on Finance.

The PRESIDING OFFICER. Is there objection?

Mr. BRUCE. What is the nature of the bill?

Mr. CURTIS. It is a bill growing out of war matters and it is the rule that the Committee on Finance shall have jurisdiction instead of the Committee on Claims.

The PRESIDING OFFICER. Without objection, the change of reference will be made.

REGULATION OF COMMERCE IN COAL

Mr. COPELAND. Mr. President, will the Senator from Indiana yield to me to report a bill and make a brief statement about it?

Mr. WATSON. Will it excite debate?

Mr. COPELAND. Not at all.

Mr. WATSON. I yield for that purpose.

Mr. COPELAND. From the Committee on Education and Labor I report back favorably with an amendment the bill (S. 4177) to regulate interstate and foreign commerce in coal and to promote the general welfare dependent on the use of coal, and for other purposes. A copy of the bill will be found on each desk.

In view of the present coal crisis in England and in view of the situation we had in the United States last winter, I am sure we will agree this is a matter which must be given consideration at this session. My purpose in calling attention to the matter this morning is to make the Senate familiar with this simple bill.

FACT FINDING

It enlarges the powers of the Department of Commerce, requiring the Bureau of Mines to gather, analyze, and make public all essential facts and conditions relating to the production, distribution, and storage of coal, including cost, prices, profits, marketing, wages, working conditions, and so forth. In its provisions for fact finding it covers the suggestions made in his bill by the Senator from Arkansas [Mr. ROBINSON].

LABOR RELATIONS

The second title of the bill relates to labor relations. In the event of a threatened strike in the coal industry the President is authorized to employ, in his discretion, any existing agencies suitable to mediate in the dispute, or perhaps to induce the disputants to submit to voluntary arbitration.

If the dispute is not settled in this manner and interruption of interstate commerce is threatened, the President is authorized to create an emergency coal board. It is the duty of this board to investigate and report to the President upon the controversy within 30 days.

EMERGENCY DISTRIBUTION

The third title of the bill provides for emergency distribution in event there is substantial restraint or interruption of interstate commerce in coal. The President is authorized to proclaim that an emergency exists, threatening to impair the health, safety, and welfare of the people of the United States, and to interfere with commerce between the several States. He may then declare as operative and in full effect the act of September, 1922, providing for the appointment of a Federal fuel distributor, providing for the declaration of car-service priorities and to prevent the sale of fuel at unjust and unreasonably high prices.

There was a further provision in the bill which I presented. This authorized the President, in his discretion, to take over and operate during the emergency such mines as were necessary to furnish enough coal to keep the people from freezing and starvation. This was stricken out by the committee.

The bill will be brought up for consideration, I hope, at some early time. I am anxious that Senators may be thinking about it and studying the bill, because the matter is of such importance that I feel we should be thoroughly informed regarding it in order that early action may be taken.

The PRESIDING OFFICER. The bill will be placed on the calendar. The unfinished business will be proceeded with.

RAILWAY CARRIERS AND THEIR EMPLOYEES

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 9463) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes.

Mr. CURTIS. I desire to submit an amendment to the pending bill, which I ask to have read and that it be printed and lie on the table.

The amendment was read and ordered to be printed and to lie on the table, as follows:

Amend section 7, paragraph (f) in line 20, by striking out the proviso and add in lieu thereof the following proviso:

"*Provided*, That the Interstate Commerce Commission may, upon its own motion, suspend the operation of any such award or any wage agreement between the parties subject to this act, except one resulting from the operation of section 10, if the commission is of the opinion that such award or agreement involves an increase in wages or salaries as not to be in the public interest. The Interstate Commerce Commission shall hear any award or agreement so suspended within 30 days thereafter and with due diligence affirm or modify such suspended award or agreement."

Mr. WATSON. Mr. President, I claim for the measure that is now brought before the Senate for consideration that it is the best that can be passed at the present time and under existing conditions to preserve peace between the carriers and their employees in the United States.

The measure is the result of conferences held during the summer and fall of 1925 between representatives of employers and employees on the transportation system of the United States. Informal conversations between them began before the adjournment of the last Congress, but it was not until after

that time that representatives were formally selected for the purpose of conferring upon some measure or some principle or some policy that might prevent strikes in the future and preserve peace as between the parties. In December last the bill was finally formulated. During these conferences the parties gradually grew closer together. There had been more or less of antagonism, more or less of suspicion, more or less of fear, but gradually it dawned upon each party that the other was impelled by the most sincere motives and that each side was determined, if possible, to make concessions so that some measure might finally be agreed upon that would preserve peace in this portion of the industrial world and in the future prevent strikes and lockouts on the railroads.

I will ask to have printed in the RECORD as a part of my remarks a list of the railroads that were represented and also a list of the employees' organizations that were engaged in this endeavor.

The PRESIDING OFFICER (Mr. BLEASE in the chair). Without objection permission is granted.

The lists are as follows:

LIST OF RAILROADS

Alabama & Vicksburg.
Atchison, Topeka & Santa Fe.
Atlanta & West Point.
Atlantic Coast Line.
Baltimore & Ohio.
Boston & Maine.
Buffalo, Rochester & Pittsburgh.
Central of Georgia.
Central Railroad Co. of New Jersey.
Chesapeake & Ohio.
Chicago & Eastern Illinois.
Chicago & North Western.
Chicago, Burlington & Quincy.
Chicago & Western Indiana.
Chicago Great Western.
Chicago, Indianapolis & Louisville.
Chicago, Milwaukee & St. Paul.
Chicago, St. Paul, Minneapolis & Omaha.
Clinchfield.
Colorado & Southern.
Delaware, Lackawanna & Western.
Duluth, South Shore & Atlantic.
Florida East Coast.
Fort Worth & Denver City.
Grand Trunk System, lines in United States.
Great Northern.
Gulf Coast Lines.
Gulf, Mobile & Northern.
Gulf & Ship Island.
Hocking Valley.
Illinois Central.
Lehigh & New England.
Lehigh Valley.
Long Island.
Louisville & Nashville.
Minneapolis, St. Paul & Sault Ste. Marie.
Minnesota & International.
Missouri Pacific.
Nashville, Chattanooga & St. Louis.
New York Central.
New York, Chicago & St. Louis.
New York, Ontario & Western.
Norfolk Southern.
Norfolk & Western.
Northern Pacific.
Pennsylvania.
Reading.
Richmond, Fredericksburg & Potomac.
Rutland.
St. Joseph & Grand Island.
San Antonio, Uvalde & Gulf.
Southern Pacific.
Trinity & Brazos Valley.
Union Pacific.
Vicksburg, Shreveport & Pacific.
Western Pacific.
Western Railway of Alabama.
Winston-Salem Southbound.

LIST OF ORGANIZATIONS OF RAILWAY EMPLOYEES

Brotherhood of Locomotive Engineers.
Brotherhood of Locomotive Firemen and Enginemen.
Order of Railway Conductors.
Brotherhood of Railroad Trainmen.
Switchmen's Union of North America.
Order of Railroad Telegraphers.
American Train Dispatchers' Association.
International Association of Machinists.
International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America.
International Brotherhood of Blacksmiths.
Sheet Metal Workers' International Alliance.
International Brotherhood of Electrical Workers.
Brotherhood of Railway Carmen of America.
Brotherhood of Railroad Signalmen of America.
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.
Brotherhood of Stationary Firemen and Oilers.
United Brotherhood of Maintenance of Way Employees and Railroad Shop Laborers.
National Organization, Masters, Mates, and Pilots of America.
International Longshoremen's Association.
National Marine Engineers' Beneficial Association of the United States of America.

Mr. WATSON. Suffice it to say in general terms that 58 railroads were concerned in these negotiations and 20 railroad labor organizations. Fifty-eight railroads were favorable. When the final vote was taken 20 were against the proposition, but the railroads do not vote as units. They vote in their meetings by each thousand miles of railroad, 1 vote for each 1,000 miles. One hundred and ninety-nine votes were cast for the bill measured in that way and 48 against it. Twenty railroad labor organizations participated through their representatives in these conferences. No labor organization was hostile to the proposition at that time and indeed at the present time none is hostile, though one or two have been here asking to have some amendments adopted, in order that they may certainly be included in the provisions of the bill.

The measure passed the House, after full consideration by the Committee on Interstate and Foreign Commerce and by the House of Representatives itself, by a vote of 381 to 13. We had ample hearings before the Interstate Commerce Committee of the Senate. Practically everybody was heard who demanded to be heard, and it was quite significant at the time that no railroad company appeared in opposition to it, that no labor organization appeared in opposition to it, and that the sole opposition was voiced by Mr. James A. Emery, a very able and brilliant lawyer representing the National Association of Manufacturers, who appeared in the interest of certain amendments, which had full consideration by the committee. So that this is a good-faith effort on the part of the managers and on the part of labor to set up some machinery by which their differences may be adjusted and by which peace between them may be preserved.

This is no experiment in the way of legislation in the United States. The truth about it is that as far back as 1875 discussions in both Houses of Congress began as to whether or not railroad strikes might not be prevented by conciliation, by arbitration, and by those peaceful methods that we all so much favor when they can possibly achieve the desired result. Public sentiment, however, did not sweep up to a sufficient height and develop sufficient volume to bring about the passage of an act until 1888; but in that year Congress did pass an act providing only for arbitration.

Let me say, Senators—and this is essential in the consideration of this question—that there are two classes of disputes that arise in connection with the operation of railroads. One class is what are ordinarily called grievances. They may be of a personal nature; they may involve a great many employees; they may involve a few employees; they may involve but one employee. Of this class, also, are disputes rising out of the interpretation and application of existing agreements as to wages, hours of labor, or working conditions.

The second class are those which have reference directly to changes in the rates of pay, salaries, hours of service, or working conditions, and they are the ones that in the last analysis occasion the greatest difficulties and give rise to the most serious disagreements.

I wish to give Senators a brief history of this attempt to set up machinery to preserve peace in the transportation system of the United States. The first act, that of 1888, provided for arbitration only. It had no reference to either mediation or conciliation and had to do only with wages and rules and conditions of service. There was no attempt to settle what are ordinarily called grievances by the boards of arbitration thus set up. The President was authorized by the act to appoint two commissioners, one from the State in which the dispute arose and the other from any place the President might choose to find him. Those two commissioners were authorized to cooperate with the Commissioner of Labor for the

purpose of constituting a board that might arbitrate the dispute or disagreement in which the railroad was involved. They could voluntarily offer to arbitrate, and the President had the right to offer their services in case of a dispute, because, Senators, all of this legislation is based upon the theory of the existence of a dispute. If there be no dispute, there is no occasion for arbitration; there is no occasion for any attempt at either conciliation or mediation. It is only in the case of disputes where difficulties that are irreconcilable arise that this machinery is set up for the purpose of establishing some method that will bring the disputants together and prevent strikes or lockouts. The act of 1888 also provided for arbitration. In case of a dispute each side could name one individual and those two could name a third. They were clothed with powers of arbitration—that is, the powers usually given to boards of arbitration.

The law was on the statute books for 10 years, but in that whole time not one single case was submitted to it for consideration. This is most significant to a proper understanding of the mechanism of this machinery. In the 10 years that that law remained on the statute books not one case was referred to it, for the reason that it had in it provisions for compulsory investigation; that is to say, the board appointed by the President, if cases were referred to it—and it all had to be voluntary—could take charge and force the attendance of witnesses, the production of papers, and so on. That was so distasteful to both sides at that time that nobody appealed to the board.

There was one tremendous strike that occurred while the board was in existence, and that was the celebrated Debs strike of 1894, during the course of which President Cleveland sent troops to Chicago to see that the transportation of the mails was not interferred with by those who were seeking to destroy railroad property. Yet no case was submitted for the consideration of the board of arbitration.

By 1898 Congress and the public believed that some law should be enacted, that some machinery should be set up, that some method should be adopted by which arbitration, mediation, and conciliation, without the use of force, might be employed in the settlement of all such disputes. So what is called the Erdman Act was passed in 1898. Some of us were Members of the House of Representatives at that time. My friend the Senator from Kansas [Mr. CURTIS], the present majority leader, and one or two other Senators were then Members of the House of Representatives and voted for the Erdman Act.

The act of 1888 and the Erdman Act of 1898 applied only to wages, rules, and working conditions, and not to grievances. Those acts applied only to those employees who were engaged in the actual operation of the trains, those engaged in train service only. They did not cover any other branch or organization of railroad employees.

The Erdman Act provided for mediation and conciliation; that is to say, when a dispute arose it was the business of the disputants to get together and undertake by mediation and conciliation to settle their own differences and arrange their own difficulties. Then it provided for arbitration in the usual way in which arbitration comes about, each side appointing a man, and those two a third, the three to arbitrate the difficulty. After the question was submitted to arbitration the board so created then had the right to send for persons and for papers; in other words, there was provision for compulsory investigation; and the award was filed with the circuit court of the United States and judgment was rendered thereon.

For eight and a half years after that act was passed no dispute was submitted under it for mediation or arbitration or conciliation or to be dealt with in any other manner. But by that time public sentiment had become so aroused to the danger of strikes and the interruption of the transportation service of the country that cases began to be referred to these boards for settlement, and between 1906 and 1913, when the Erdman Act was repealed, there were submitted to it 61 cases involving wages, salaries, and conditions of service, which are the questions out of which grow the great strikes on the railroads of the country. Every case was adjusted peacefully without any resort to force—a most happy consummation of the desires of those who were responsible for that legislation.

Of the 61 cases thus settled 16 were disposed of by arbitration and the remainder by mediation. Not one single strike of any great consequence came upon the country during that time, and every case that was referred to these boards was adjusted.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER (Mr. GOFF in the chair). Does the Senator from Indiana yield to the Senator from Florida?

Mr. WATSON. Yes.

Mr. FLETCHER. Under what act was that?

Mr. WATSON. The Erdman Act. But the public and Congress became somewhat dissatisfied, and as a result, in 1913, the Newlands Act was passed. Senators will remember Senator Newlands, of Nevada. He introduced a bill which took his name and became a law in 1913. The difference between the Newlands Act and Erdman Act was that the Newlands Act provided a permanent Board of Mediation and Conciliation. It provided that the President could appoint a board consisting of a special commissioner of mediation and two others who were in the Government service, holding office at that time. That board could offer its services in case of a dispute between the management and employees of the railroads. It could only consider, as in the case of the other two acts, questions involving wages, hours of labor, and conditions of service. It could not in any wise deal with grievances or those minor disputes which are characterized as grievances. During the life of the Newlands Act 148 disputes were submitted to these boards, and all but one were settled peacefully. That was the one out of which grew the Adamson law. That dispute was settled not by mediation or conciliation or by arbitration, but by direct act of Congress.

I may have occasion later on to refer to the Adamson Act. Seventy-one of the cases submitted under the Newlands Act had reference to wages and hours and conditions of labor, the most aggravating class of cases that arise, and yet all were adjusted harmoniously; all were settled by mediation, conciliation, or arbitration. At all events no force was employed; at all events no compulsion was used, but all of the difficulties which arose during that time were settled in accordance with the methods of peace, which we trust may be those that shall be adopted in the future.

So, Senators, we come now to 1918, when the railroads were taken over by the Government on the 1st day of January of that year. With the advent of Government operation a new system was set up. We may all remember that at the time the railroads were taken over by the Government there was a tremendous demand for increased wages, and at that very time Mr. McAdoo appointed a commission of four. Mr. Wilcox, who had been chairman of the Republican National Committee, was one of those commissioners.

The commission sat for many months in the effort to adjust that question, and after, I think, four months, they decided unanimously in favor of the railroad employees; their decision was concurred in by Mr. McAdoo, and the award was made retroactive to January 1, 1918. Knowing that other disputes and difficulties would arise, at the suggestion of Mr. McAdoo, provision was made for boards of adjustment, which was the first time they appeared in connection with legislation of this kind. Such boards of adjustment could be formed by the parties to a controversy, or they could be permanent.

I refer to them as provided in the law at that time because in character and in formation they were identical with those in the Esch-Cummins Act. That is to say, they might be established by a single railroad line, a number of carriers, or any number of organizations. They might be established by a group of railroads. They might be established by the railroads nationally. I will say that under Government operation these boards of adjustment were almost universally acquiesced in and established by the labor organizations, or offers were made to do so, although at that time they were not looked upon so kindly by railroad managements.

During that period many cases were referred to these boards of adjustment; but the boards of adjustment in that case, as in this bill provided, had to do only with grievances—that is to say, with the interpretation and the application of existing agreements as to wages, hours of labor, and conditions of service—not as to wages, conditions of service, and hours of labor themselves, but as to the application and interpretation of existing contracts as to them. These boards of arbitration always are made up of those intimately acquainted with the conditions. Outsiders are not put on the boards. The problems are all of a technical nature, and therefore railroad men are required to decide them. So that in the measures providing for Government operation, as well as in the Esch-Cummins Act and in the measure before us, we provide for boards of adjustment to settle those technical questions that arise growing out of the interpretation and the application of existing agreements as to wages, hours of labor, and conditions of service, though they do not deal with the larger and the more drastic and the more dangerous problems of changes in the rates of pay or in the conditions of service or in the hours of work.

These boards of adjustment, as I say, were almost universally accepted; and in order that everybody might have an

opportunity to have his case adjusted, however small his grievance, Adjustment Board No. 1, Adjustment Board No. 2, and Adjustment Board No. 3 were established, and dozens upon dozens of cases were submitted to them during the time of their existence. All of these cases were settled in a spirit of conciliation and of harmony, and no difficulty grew out of the service during the time of Government operation so far as mediation or conciliation could maintain the harmonious relations that existed.

When the roads were to be turned back to their owners, Mr. Esch, then chairman of the Interstate and Foreign Commerce Committee of the House and now an honored member of the Interstate Commerce Commission, introduced a bill providing for the method of their return. This bill provided for conciliation and arbitration and for mediation. Mr. Anderson of Minnesota, submitted an amendment to it, which was adopted, which went even further along the line of conciliation and mediation than the proposition of Mr. Esch. When the bill came over to the Senate, however, there was a new situation. The Senator from Iowa [Mr. CUMMINS], then the honored chairman of the Interstate Commerce Committee, a man of wide knowledge and great experience in dealing with these problems, brought in an entirely new proposition. I call the particular attention of those who believe that at this time we should have force and compulsion instead of mediation and conciliation in the settlement of these disputes to the act that was passed by the Senate of the United States upon the recommendation of the Interstate Commerce Committee at that time.

We provided for a Railroad Labor Board. As recommended by the Interstate Commerce Committee and passed by the Senate, it consisted of five persons, all to be appointed by the President, all representing the general public. None of them was to have anything to do with railroad operation or with railroad ownership or with membership in any railroad organization; but when the bill got over to the House, the House would have none of it. It completely changed the complexion of the Railroad Labor Board, and it sent back to us a proposition providing for a Railroad Labor Board consisting of nine members—three representing management, three representing labor, and three representing the general public. In other words, it sent back to us a proposition by the terms of which we have six lawyers and three jurors on the jury, in which we have six advocates and three judges on the bench; and that is one of the causes of the failure of the Railroad Labor Board at the present time. It has been brought to a condition, as I shall show you presently, where it is absolutely useless so far as the settlement or adjustment of any controversies submitted to it is concerned.

That is just a brief history of the results of the efforts of Congress in times gone by, aided partially only by management on one side and labor on the other, to set up machinery for the adjustment of the differences between management and laborers on the railroads of the country.

That brings us up to the present time. "Well," you say, "what is the occasion for the passage of this bill at this time"? The necessity for the passage of this measure at this time is the collapse of the Railroad Labor Board, not because of the personnel of the board—because there are on it men of high character, wide experience, and high motives—but because of the very complexion of the board, its constituent elements. As I have said before, it has on it three members representing management, three representing labor, and three representing the general public; and when any case comes before that board, immediately those who are in sympathy with the respective sides become advocates on the court.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Kansas?

Mr. WATSON. I do.

Mr. CURTIS. I have been surprised to hear the Senator say that the Railroad Labor Board has collapsed. I wish the Senator, before concluding his remarks, would tell us in what regard it has collapsed. I have been told, though I have not had time to verify the statement, that the Railroad Labor Board has been very successful except in, perhaps, two or three cases. Of course, I am not a member of the committee and have not had time to verify that statement, but I should like to have the Senator, if he has the facts, state them in reference to the failure of the board.

Mr. WATSON. The facts are that all the organizations of labor squarely state that they never again will appeal to the Railroad Labor Board in any case; four-fifths of the railway managers of the country state that they never again will appeal to it in any case; and if neither side appeals to the board, it has no jurisdiction over anything, because it is only to settle disputes. If agreements are made, the Railroad Labor Board can not get into the situation. It is quite true that in the past it did consider a great many cases. It is quite true that management went to it; it is quite true that labor went to it; it is quite true that it had a great many cases.

Mr. CURTIS. Mr. President, is it not true that the cases settled were satisfactorily settled except in about three instances?

Mr. WATSON. In many instances, yes; but if the parties will no longer appeal to it, of what use is it? It is a dead branch on the vine that can bring forth neither flower nor fruit.

Mr. WHEELER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Montana?

Mr. WATSON. Yes.

Mr. WHEELER. The trouble with the Railroad Labor Board is that the Supreme Court has held that it has not any power, and that any order it makes is not binding.

Mr. WATSON. I am coming to that, I will say to the Senator, in what I hope will be something of an orderly discussion.

Mr. CURTIS. Then, right in that connection, I wish the Senator would tell us something about the board of mediation, which under this bill has absolutely no authority, and yet the bill creates a board of five members at salaries of $12,000 each.

Mr. WATSON. It has just as much authority as the Railroad Labor Board.

Mr. CURTIS. Why create it, then, if it is given no authority?

Mr. WATSON. I am going to tell the Senator why.

The present Railroad Labor Board is permanent, and that is another cause of its weakness, because, having no authority to enforce its decrees, whenever it makes a decision it makes an enemy. That is why labor no longer will appeal to it, and that is why management no longer will appeal to it; and if nobody appeals to it—as the parties say they will not—then of what use is it? It can not voluntarily thrust itself into a situation unless there is a dispute; and if there be no dispute, and the parties agree, then there is nothing of which the Railroad Labor Board has any jurisdiction. It is utterly powerless to go into a situation unless there be a dispute. If there be an agreement, it has no function to perform, no duty to fulfill.

That manifest failure, as I shall show, on the part of the Railroad Labor Board, resulted in a bill being reported from the Interstate Commerce Committee of the Senate only a year ago abolishing the Railroad Labor Board, and 160 Members of the House of Representatives signed a statement in favor of abolishing it. This situation became so acute that the President referred to it in his annual message in 1923, in which he said:

> The settlement of railroad-labor disputes is a matter of grave public concern. The Labor Board was established to protect the public in the enjoyment of continuous service by attempting to insure justice between the companies and their employees. It has been a great help, but is not altogether satisfactory to the public, the employees, or the companies. If a substantial agreement can be reached among the groups interested, there should be no hesitation in enacting such agreement into law.

And that is precisely what we bring to you now—an agreement, a substantial agreement, a working agreement accepted by both sides, in accordance with the suggestion of the President of the United States.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Kansas?

Mr. WATSON. I do.

Mr. CURTIS. Does the Senator claim that that is done by the board of mediation?

Mr. WATSON. No; I am coming to tell the Senate all about it in a little bit, if the Senator will listen to me.

Mr. CURTIS. I thank the Senator. I will listen.

Mr. WATSON. The President continued:

> If it is not reached, the Labor Board may very well be left for the present to protect the public welfare.

But it has been reached. Therefore we have fulfilled the conditions of the President's message.

This message resulted in a wide discussion of the question throughout the United States. After its delivery the platforms of both political parties in 1924 took cognizance of the situa-

tion, the two conventions evidently believing that the matter was of such serious moment as to deserve platform recognition. The resolution adopted by the Democratic convention was as follows:

The labor provisions of the act (the transportation act) have proven unsatisfactory in settling differences between employer and employees. * * * It must therefore be so rewritten that the high purposes which the public welfare demands may be accomplished.

In that year—and I call the attention of my Republican associates to this language—the Republican platform of 1924 carried these words——

Mr. SMITH. Mr. President, before the Senator reads what was in the Republican platform, will he reread that which was written in the Democratic platform? As I caught it, it stated that the law as it now stands had to be rewritten. Will the Senator read that again, please?

Mr. WATSON. I shall be very happy to do so:

The labor provisions of the act (the transportation act) have proven unsatisfactory in settling differences between employer and employees. * * *

Mr. SMITH. That is the present Labor Board?

Mr. WATSON. That is what it means.

It must therefore be so rewritten that the high purposes which the public welfare demands may be accomplished.

The Republican platform of the same year used this language to which I call attention. If it does not fittingly describe and graphically set forth the very labor in which we are now engaged, then I do not understand the significance of language:

The Labor Board provisions of the present law should be amended whenever it appears necessary to meet changed conditions. Collective bargaining, mediation, and voluntary arbitration are the most important steps in maintaining peaceful labor relations and should be encouraged.

Listen:

We do not believe in compulsory action at any time in the settlement of labor disputes.

And yet men are coming here every day demanding that compulsory action be taken and compulsory provisions written into this law in place of what we adopted as the Republican platform!

We do not believe in compulsory action at any time in the settlement of disputes. Public opinion must be the final arbiter in any crisis which so vitally affects public welfare as the suspension of transportation.

We provide the machinery by which public opinion may be invoked, because we provide the method by which the public may be informed so as to intelligently come to conclusions respecting these propositions.

Therefore the interests of the public require the maintenance of an impartial tribunal which can in an emergency make an investigation of the facts and publish its conclusions.

That is just what we give.

This is essential as a basis for popular judgment.

I maintain that the bill now before the Senate carries out these suggestions to the very letter and embodies the very ideas set forth in the message of the President of the United States and in the platforms of the two great political parties.

Following his election the President, in his annual message to Congress, on December 3, 1924, referred again to this question. He said.

Another matter before the Congress is legislation affecting the labor sections of the transportation act. Much criticism has been directed at the workings of this section. It would be helpful if a plan could be adopted which, while retaining the practice of systematic collective bargaining with conciliation and voluntary arbitration of labor differences, could also provide simplicity in relations and more direct local responsibility of employees and managers.

Here is the plan thus outlined to the very letter to carry out that suggestion in the bill that is now here for consideration. I do not know how the suggestions of a message could be more explicitly embodied in legislation than were those of the President in the provisions of the pending measure.

The conferences conducted throughout 1925, which resulted in the formulation of the pending bill, were concluded on the 21st of December of that year. Speaking with reference to the results of the labors of the gentlemen who were responsible for the formulation of this measure, the President said in his annual message:

I am informed that the railroad managers and their employees have reached a substantial agreement as to what legislation is necessary to regulate and improve their relationship. Whenever they bring forward such proposals, which seem sufficient also to protect the interests of the public, they should be enacted into law.

Mr. CURTIS. Mr. President, will the Senator explain at the proper time, if he can, wherein the public is protected in the bill which is before us?

Mr. WATSON. I shall be glad to tell the Senator all about that, too.

The President continued:

It is gratifying to report that both the railroad managers and railroad employees are providing boards for the mutual adjustment of differences in harmony with the principles of conference, conciliation, and arbitration. The solution of these problems ought to be an example to all other industries. Those who ask the protection of civilization should be ready to use the methods of civilization.

The manifest inclination of the managers and employees of the railroads to adopt a policy of action in harmony with these principles marks a new epoch in our industrial life.

How could this pending measure be indorsed in stronger or more explicit language? I will come in a moment to what my good friend from Kansas adverted to.

Remember this, that the employees absolutely refuse to appear before the board in the future; that many of the important railroads of the country are opposed to it; that it has been held explicitly, as I will show in a moment, by the Supreme Court of the United States to have no authority to execute its decrees or enforce any decision it may make.

Mr. CURTIS. Mr. President, did not the Senator and other members of the committee know it had no authority when it was created?

Mr. WATSON. Certainly we did.

Mr. CURTIS. My recollection is that I made a motion on the floor to amend the bill by striking out the provision creating the Labor Board because it had no authority. The Senator knew at the time it had none.

Mr. WATSON. Certainly it had none. It is absolutely helpless. It is perfectly impotent. Yet my friend is holding it up as the final and decisive authority of the country to settle all the railroad difficulties of the Nation.

Mr. CURTIS. No; the Senator from Kansas is not holding it up; but the Senator from Kansas wants this measure so worded as to give protection to the public.

Mr. WATSON. Which I will show we do, unless the Senator wants us to resort to force. Does the Senator want compulsory arbitration?

Mr. CURTIS. The Senator from Kansas does not want to resort to force. The Senator wants a board with authority to investigate and pass upon the question as to whether or not the public interest is protected.

Mr. WATSON. How?

Mr. CURTIS. I want it to possess some authority to determine the public interest and take such action as it can to see that the public interest is protected.

Mr. WATSON. How? By legal compulsion? That would mean compulsory arbitration. That would mean force. I will say to my dear friend from Kansas, with whom I have served all these years, that it is either an olive branch or a club, and we have come with the olive branch. There is no chance for a club.

Mr. CURTIS. What I insist is this, that we give some other board—you may make it this mediation board, if you please, or the Interstate Commerce Commission, if you please—authority to review any agreement that is reached between these people, and if they find that it is not in the public interest, that they can then set it aside.

Mr. WATSON. I will come to that.

Mr. CURTIS. That ought to be done.

Mr. WATSON. I will show the Senator that that is precisely how we do that very thing. That is what we do, I will say to my good friend from Kansas, and my honored leader.

Mr. CURTIS. It is not done in this bill.

Mr. WATSON. No; it is not what I am talking about now, but it is what I hope to talk about by and by.

The President has suggested that it would be wise to seek a substitute for this. The platforms of both parties in 1924 clearly indicated dissatisfaction with the existing act relating to labor, and therefore something must be done, or we may have difficulty throughout the approaching summer and fall.

Do not think I am making a threat. I have no authority to speak for anybody, but I know that if disputes arise on

the railroads of the country, and there is no machinery set up by which those disputes may be harmonized and those differences adjusted, there may come suffering. Therefore it is our duty, sitting here as legislators, to provide some machinery that will enable those people to adjust their differences and settle their relationships.

Mr. JOHNSON. May I suggest to the Senator that we have an example to-day in the Anglo-Saxon-speaking country across the sea, and he is endeavoring to prevent just that sort of thing.

Mr. WATSON. If it be humanly possible to do it; and may God in His providence spare this Republic such dark calamity!

Senators, in the opinion of the Interstate Commerce Committee it is not possible to embody force in any form in this legislation. The theory of the bill is—and I call attention squarely to it—that all of these difficulties can be adjusted by good-faith agreements, by adjustments, either by collective bargaining or through the medium of a board of adjustment, or by mediation, or by arbitration and conciliation, and that no force whatever is required in order to bring about this happy solution of these difficulties.

Now I come to answer my friend from Kansas as to the public interest. The great objection to this bill is, as the Senator has so well voiced it, that it does not protect the public by its provisions. My contention is that the public is far better protected by this measure than at the present time. How shall I prove that? What has the public now under the present law? It has a board of mediation, it has a board of arbitration in an individual case, and it has the Railroad Labor Board.

The adjustment boards never have as a part of their membership anybody representing the public. The disputes considered by that board, as I said a moment ago, and as I say again, all arise out of technical questions, and therefore boards of adjustment have nobody on them but those familiar with railroad business, who understand the technique of the situation.

What else has the public? It has one-third of the board of arbitration; that is to say, if there is a dispute between the railroad employees and the managers, the employees appoint one and the managers another, and the third comes from the public.

Mr. CURTIS. How do you get arbitration? Not without the consent of the interested parties.

Mr. WATSON. Certainly not; but the public has that if it has anything. If it has not that, it has not anything under the existing law. What else has it? It has one-third of the Railroad Labor Board. That is utterly impotent to enforce a decision or to execute a decree.

What do we give the public in this measure? It has one-third of every board of arbitration, just as it has now. What else? We give it a board of mediation of five persons, all representing the general public, all appointed by the President. What else do we do? We then give it an emergency board, to be appointed by the President. No member of the board of mediation, no member of the emergency board, which is to act in the last analysis, after all efforts have failed, is to have any interest in the railroad management or in any labor organization. We have given two complete boards, whereas now the public has one-third of one board. If the public is protected now, it is doubly protected by the provisions of this bill which I present for consideration.

Mr. CURTIS. Will the Senator point to the provision providing for mediation that in any way protects the public?

Mr. WATSON. How much can the Railroad Labor Board protect the public? It can not protect it at all. It is perfectly helpless.

Mr. CURTIS. The Senator keeps referring to the Railroad Labor Board. I am not interested in the Railroad Labor Board; I am interested in this measure.

Mr. WATSON. I am referring to the Railroad Labor Board because we have to substitute something for it. I want to furnish something that is live and galvanic as a substitute for something that is dead or moribund.

Mr. CURTIS. Will the Senator tell the Senate what is live in the mediation provisions of this bill?

Mr. WATSON. Certainly. I am telling the Senator with all my might.

Mr. CURTIS. Do not give us just language. Point out the provisions in the bill.

Mr. WATSON. I am pointing out the provisions in the bill. I am afraid the Senator has not read it.

Mr. CURTIS. I have read every word of it several times, and I offered an amendment because I thought it was necessary. I want to say that I am just as heartily in favor of the carriers and their men getting together as the Senator can be. I showed that when I offered an amendment to do away with the Railroad Labor Board when the present law was under consideration. I want something in this act which will provide that if agreements between the employees and the managers are unfair to the public the public's interest can be protected. Every Member of this body ought to be interested in that, because the public is more deeply interested in this question than are the railroads or their men. The railroads are created to serve the public, and the public interest should be protected in this measure or we ought to defeat the measure.

Mr. WATSON. Protect it how?

Mr. CURTIS. I stated to the Senate a moment ago that it should be protected by giving the Interstate Commerce Commission, or by giving to this board of mediation, the right to withhold any order or agreement the companies and the men may make if it is against the public interest.

Mr. WATSON. Which would be absolutely unconstitutional.

Mr. CURTIS. Giving them 30 days in which to have a chance to be heard. If the railroads and their employees want to do what the Senator contends, they will not object to that, and the very fact that they do object to it convinces me that they do not care to have the public interest protected.

Mr. WATSON. Mr. President, I do not care to stand here and impugn the railroad managements and all the railroad employees of the United States.

Mr. CURTIS. Neither do I; but that is only a fair provision, and it ought to be put in this bill.

Mr. WATSON. I will say to my good friend that he is actuated by the fear, I think, that the railway managements and the railway laborers will get together, if this is passed, and fix up an agreement for increased wages.

Mr. CURTIS. I expect them to do that, and I hope it will be fair. If it is fair, it ought to be approved, but if for any reason, because of their anxiety to get together, they agree to something that is against the public interest, there should be somebody, some power somewhere, to hold them down, and with authority to consider whether a thing is fair to the public or not.

Mr. WATSON. The public interest can be protected by mediation or by conciliation or by both. That is all there is to it.

Mr. CURTIS. So far as mediation is concerned, the Senator has not pointed out one single line that protects the public. The board of mediation, so far as it is concerned, is just as helpless and just as useless as the Senator says the present Labor Board is. We are simply asked to give to five men a salary of $12,000 each, that we might as well or had better throw in the Potomac River, because somebody might find it and it would help them.

Mr. WATSON. Let me tell my friend wherein he is wrong. In the first place, if the management of the Pennsylvania Railroad and the employees of the Pennsylvania Railroad wanted to get together to-morrow and fix wages, who is there in the United States to say they shall not do it? Not one soul! Everybody is perfectly helpless. Why? It is a private contract, and I have here decisions of the Supreme Court squarely to show that no power has a right to interfere with private contracts.

Mr. CURTIS. But if that be an agreement which would increase the railroad rates beyond what is reasonable, then there is a power or should be a power that could prevent those rates from being put into effect.

Mr. WATSON. I will talk about that feature of it, but it is not to be accomplished by the amendment proposed by the Senator from Kansas.

Mr. CURTIS. Oh, yes; it is.

Mr. WATSON. No; not by any manner of means, and I will talk about that in a moment.

Mr. CURTIS. The amendment proposed by the Senator from Kansas would give to the Interstate Commerce Commission the power to hold up an agreement until they could investigate to see if in its opinion it would be against public interest. The commission would give the parties a hearing within 30 days. If they find the agreement is against the public interest, they may order that it not be put in operation.

Mr. WATSON. I am perfectly familiar with the Senator's amendment, and I am just as much opposed to it as I could be to any proposition.

Mr. CURTIS. I am sorry, because if the Senator is opposed to it, he is opposed to protecting the public interest, and I do not think that of the Senator from Indiana.

Mr. WATSON. I am going to protect the public interest. In fact, I am right now engaged to the uttermost limit in trying to set up machinery to protect the public interest, and I will talk about that in a moment.

How can the public interfere if the Pennsylvania Railroad management and its employees get together and fix wages? It is said that there is danger that this is going to be done. If they want to do it, they can do it now. The Railroad Labor Board has nothing to do with that proposition. The Railroad Labor Board has power to act only when there is a dispute. If there be no dispute the Railroad Labor Board is never called into play. It has no authority, no jurisdiction, and it can not get into the controversy anywhere along the line.

Now, let us go to title 3, which is the title of the present law.

Mr. REED of Missouri. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Missouri?

Mr. WATSON. I yield.

Mr. REED of Missouri. Does the Senator not see any difference between a single railroad agreeing with its employees as a matter of private contract between the employee and the employer, and a proposition that the Government shall itself set up a tribunal which shall pass upon the question of wages on all railroads, affecting them all alike at one time?

Mr. WATSON. I do not. I do not care whether it is one man's wages or a million men's wages, it is the right of private contract as applied to the individual. Under the Adamson law, in the case of Wilson against New, that question was squarely decided by Chief Justice Taft and concurred in by the unanimous opinion of all the members of the court. We can not interfere with the right of private contract, the right to work, the right not to work, the right to fix wages, the right to agree on emoluments for labor. That is an absolute contract that is sustained and protected by the Constitution of the United States.

Mr. REED of Missouri. I was unfortunate in not getting my thought to the Senator.

Mr. WATSON. I do not care whether it is one man or a million men, the principle is the same.

Mr. REED of Missouri. The principle to which I am trying to call attention is this: Let us concede that the Pennsylvania Railroad has a right to agree with its men on the wages that shall be paid. That private contract, if they see fit to make it, can not be interfered with. Suppose we concede that. Does not the Senator see any difference from a practical standpoint between that transaction between one railroad and its employees, and the Federal Government setting up a board which is to decide the question not only for one railroad but for all railroads, or the Federal Government itself undertaking to sanction or to promote an arrangement that affects every railroad in the United States at once? Does the Senator see no practical difference between those two propositions?

Mr. WATSON. Not the slightest in the world. If it relates to the wages of one man, it is the principle involved. The Adamson law applied to a case where all the railroads were involved and all labor was involved, and that is where the decision came.

Mr. REED of Missouri. I am talking about the practical standpoint.

Mr. WATSON. I am talking about the legal phase of it, and that is all there is to it. There is no escape from that.

Mr. REED of Missouri. I do not think so at all.

Mr. WATSON. Then the Senator and I differ.

Mr. REED of Missouri. If that is all there is to it, why pass the bill? If all there is to it is the legal phase——

Mr. WATSON. I will explain that to the Senator in a moment.

Mr. REED of Missouri. If the Senator will pardon me, I should like to make this statement.

Mr. WATSON. Certainly.

Mr. REED of Missouri. If all there is to it is the legal phase and if any railroad company and its employees had the right now to contract——

Mr. WATSON. Does the Senator dispute that?

Mr. REED of Missouri. No; I am not disputing it. If that is all there is to it and if that is all the bill does, why should we pass such a bill?

Mr. WATSON. That is all there is to this phase of it.

Mr. REED of Missouri. Manifestly it is because we propose to go beyond the mere contractual right that individual men have to contract with their company and we propose to set up a machinery to do something. Now what is it? It is to interfere in a labor dispute. Senators can not come here and say, because the parties have a legal right to contract, therefore we must pass this bill, which proposes to create a tribunal to affect the rights of the company and the men and the public and at the same time fall back upon the proposition that they have the legal right to do it anyway.

Mr. WATSON. What would the Senator set up? What does he propose?

Mr. REED of Missouri. I am just trying to call attention to the distinction.

Mr. WATSON. I am trying to find out what the Senator would do.

Mr. REED of Missouri. I shall have some opportunity to express myself in regard to what I think ought to be done, but I am just calling attention to the fallacy of an argument which says there is a legal right to contract, and therefore, because of the legal right to contract, we must pass this particular bill.

Mr. WATSON. No; I do not say that.

Mr. REED of Missouri. It is said that we must pass this particular bill which goes far beyond the legal right of contract, and that is the reason why the Senator is asking to have the bill passed.

Mr. WATSON. No; the Senator has, unintentionally, of course, misstated my major premise and my minor premise and my conclusion. Otherwise his statement is all right.

Mr. FESS. Mr. President, will the Senator yield to me?

Mr. WATSON. Certainly.

Mr. FESS. I do not want to interfere with the course of the Senator's argument, but the Senator from Kansas [Mr. CURTIS] has raised a very significant question about the protection of the public——

Mr. WATSON. It is, indeed.

Mr. FESS. In asking that the Interstate Commerce Commission be given certain power which can not protect the public except in the way of having power to prevent a strike, which nobody is proposing, or in preventing an increase of rates in order to meet the agreement. I would like to ask the Senator whether agreements can require an increase of rates under the bill without first having the approval of the Interstate Commerce Commission.

Mr. WATSON. It can not; and I propose to discuss that with the Senator in just a moment or two.

Mr. SMOOT. Mr. President, will the Senator from Indiana yield to me?

Mr. WATSON. Certainly.

Mr. SMOOT. There are certain railroads in the United States that could increase the wages of their employees and still make more than the recapture clause of the law would allow them in the way of earnings. There are other railroads in the United States who, with the wages paid to-day, can hardly meet their expenses. What is there in the bill that would prevent the first-mentioned railroads, in order not to turn back to the Government of the United States a certain amount of their earnings over and above the amount allowed, from increasing the wages of their employees? And if that is done, does not the Senator think all employees on the other railroads would demand the same rate of pay, and if that be the case, what is going to be the result if the bill passes?

Mr. WATSON. I shall be very glad to take up that particular phase when I reach it, because I intend to do so later on.

Mr. SMOOT. I wish the Senator would do so, because it is of vital importance.

Mr. WATSON. Of course, the Senator is referring to the recapture clause?

Mr. SMOOT. Yes.

Mr. WATSON. Emphasizing the fact that the present Railroad Labor Board is helpless even in the case of a dispute, I want to call attention to two events that happened. In December, 1923, the engineers and firemen applied to the New York Central for a wage increase. They refused to submit the matter to the Railroad Labor Board and declined to take it there, but they did sit down around the table with the management of the New York Central.

The New York Central granted the increase. Similar negotiations resulted in a 5 per cent increase on all the eastern lines. They declined to appeal to the Labor Board, and the increases were made without any reference whatever to the Labor Board. The Labor Board was powerless to help the situation.

Immediately after that the engineers and firemen requested the western railroads to apply the New York Central increase to the western railroads. Conferences were held between the western managers' committee and the organizations. The railroads countered the request for a wage increase with a proposed change in rules, which the employees refused. The managers' conference failed, and ended in May, 1924. The employees then sought to get the individual roads in the West to apply the New York Central increase. The Labor Board intervened on its own motion and summoned the parties before it. The employees refused absolutely to appear. This was in July, 1924. The Railroad Labor Board issued subpœnas in

September, 1924, and attempted, through the district court, to compel the attendance of Mr. Robertson and others. Two cases were carried to the Supreme Court of the United States, where the first one, Robertson *v.* Railroad Labor Board, was decided in favor of the employees, the court holding that they had no right, power, or authority to subpœna anybody to come before them for any purpose. Therefore the whole thing went out of court.

What happened? Being unable to force the employees to appear, the Railroad Labor Board took evidence and handed down a decision in December, 1924, ordering certain changes in rules. The employees claimed that those changes in the rules would utterly invalidate any increase in wages. The employees refused to pay the slightest attention in the world to the decision so called. After a strike vote was taken on the Southern Pacific that railroad settled with the employees, granting the wage increase without any changes in the rules, in December, 1924.

Then similar settlements were made with all the other western railroads. In other words, here was a case where they declined absolutely to appeal to the Railroad Labor Board, and the Railroad Labor Board was powerless. Here was another case where the Railroad Labor Board made a decision and where both parties refused to pay any attention to the decision, but went on and agreed to an increase regardless of the Labor Board, and the Labor Board was powerless.

Mr. SMOOT. I want to get the Senator's idea as to what would happen in a case like this. Suppose another case like the New York Central case with its employees should arise. Suppose the employees took the identical course that they took and the western railroad employees should then appear asking for an increase. Suppose the increase made in the New York Central case was not affected by the recapture clause, but the increase was such that if some of the roads in the United States, be they in the West, or South, or East, granted those same rates they could not make the road pay. What would happen then?

Mr. WATSON. May I answer that in just a little bit?

Mr. SMOOT. At any time, but I want it answered, because I think it is a very vital question.

Mr. WATSON. An answer at this time would interrupt the continuity of what I am trying to present. I want to take up for specific discussion the amendment offered by the Senator from Kansas [Mr. CURTIS], which includes the proposition the Senator from Utah has just suggested.

Mr. SMOOT. Not altogether. That is only a part of it.

Mr. FESS. Mr. President, will the Senator from Indiana yield to me?

Mr. WATSON. Certainly.

Mr. FESS. I understand the question of the Senator from Utah [Mr. SMOOT] to be to the effect that if there be a profitable road, which could very easily increase the pay of its employees, and at the same time there be a less profitable road, which could not safely make the increase, the proposed law will not meet that condition? However, how is it met under the existing law?

Mr. WATSON. My attention was diverted for a moment and I did not catch the Senator's question.

Mr. FESS. Under the proposed law the small railroad would be in the same situation, so far as its operations are concerned, as under the present law?

Mr. WATSON. Certainly.

Mr. FESS. In other words, the proposed law will not in any way interfere with the less profitable roads.

Mr. SMOOT. The Senator forgets that under the power of the Interstate Commerce Commission if the allowance of increased wages for employees involves a greater expense than a railroad can stand under present rates, then an increase of rates must take care of it. That applies to all of the roads throughout the United States, but in this case it could not be cared for in that way.

Mr. FESS. It would apply under the new law just as it would under the present law.

Mr. SMOOT. No.

Mr. FESS. Precisely.

Mr. SMOOT. Not if the Interstate Commerce Commission has nothing to say about it.

Mr. FESS. That matter was presented to the committee.

Mr. WATSON. I am going to come to that in a little while, I will say to my friend from Utah.

Mr. GOODING. Mr. President, it seems to me that it would be better if Senators would allow the Senator from Indiana to proceed with his presentation of this bill.

Mr. WATSON. That is all right.

Mr. GOODING. I am sure that many of the Senators here would like to have a full statement in reference to the bill and then to submit their questions. I am certain that the Senate can get a better understanding of the bill in that way. I am sure that the Senator from Indiana, who is the chairman of the Interstate Commerce Committee of the Senate, is going to discuss every phase of the bill all the way through.

Mr. SMOOT. All the Senator from Indiana has to do is to refuse to yield if he desires not to be interrupted, and I will respect his wishes.

Mr. GOODING. But the Senator from Indiana does not care to do that. It seems to me, however, that it would be to the advantage of the Senate if he should be allowed to proceed until he shall have concluded his presentation of the bill.

Mr. BRUCE. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Maryland?

Mr. WATSON. I certainly do.

Mr. BRUCE. I am sorry that I can not just yet accept the suggestion of the Senator from Idaho [Mr. GOODING]. It seems to me that the Senator from Indiana ignores the fact that while the present Railroad Labor Board has no power to enforce its conclusions and has no compulsory power of any kind, yet it has the power to do what was practically the only thing it was intended to do when it was created; that is, to elicit facts and bring those facts to the attention of the public, so that the public may form its own judgment as to the justice of an industrial dispute.

Mr. WATSON. But how far afield it must go to do that, when no labor organization will appeal to it in any dispute, when few railroad managers will appeal to it in any dispute, and when if it thrusts itself in everybody will know that no attention will be paid to whatever decision it may reach. Why refer a case to a board of that character?

Mr. BRUCE. But is the Senator right in saying that nobody pays any attention to it?

Mr. WATSON. I am right in saying that. If the Senator was present in the committee and heard the statement of representatives of labor that they never intended again to appeal to it, he would not question the accuracy of my statement. They have not been appealing to it recently, except in cases of slight grievances.

Mr. BRUCE. If the theory of the law is right, it makes very little difference whether the railway executives pay any attention to the Railroad Labor Board or whether the railway workers pay any attention to it. It still has the power through its statistical bureau, and through its agencies of one sort and another, to establish the real facts of a controversy, to elicit information with reference to a controversy, and to present that information to the public, so that the public may judge whether it is the railway executives or the railway workers that should suffer its condemnation.

Mr. WATSON. I just showed the Senator that the present board has no such power; I just gave two illustrations where the board subpœnaed men to come before it to testify and they declined to testify; and the case was taken to the Supreme Court of the United States, where it was decided that the board did not have that power.

Mr. BRUCE. The Senator is in error in citing the defiance of the law as an illustration of the inefficacy of the law.

Mr. WATSON. It is no defiance of the law when there is no law and there is no authority. Why does the Senator say it is law when it is not law and when this board has no authority?

Mr. BRUCE. It has no power to enforce its mandates.

Mr. WATSON. It has not the power to compel the attendance of witnesses.

Mr. BRUCE. It can issue no compulsory process; that is all true; it was never intended to have any such compulsory power; but I think in the formation of that board it was intended that it should be clothed with full authority to elicit the facts relating to labor controversies and to lay those facts before the American people so as to let the American people judge whether it is the railway executives or the railway workers who are at fault.

Mr. WATSON. That is very fine, but the board has no such power; it can do no such thing. It can not subpœna a solitary man and compel him to come before it; it can not issue a subpœna duces tecum and have it honored; it can not get a soul before it.

Mr. BRUCE. But information can be obtained without resort to a subpœna duces tecum or resort to a summons. There are all sorts of ways of getting information in the case of a labor dispute; there are hundreds of individuals who are only too glad to come forward and to give information to the Railroad Labor Board.

Mr. WATSON. They generally know nothing about it.

Mr. BRUCE. I say the Senator is not correct——

Mr. WATSON. I am correct.

Mr. BRUCE. When he attempts to hold up the Labor Board as being absolutely impotent, for that is not the fact.

Mr. WATSON. I say it is a fact, and I say that the facts warrant the statement. The Senator knows it has no power; the Senator has admitted that it can not enforce its decrees; he has admitted that it has no compulsory process. Then what is there to it?

Mr. BRUCE. It was never intended to have any such power. We have not yet arrived at the stage—although perhaps we may, if the example that is being set by England is to become infectious—we never have yet arrived at the stage of being compelled to resort to the use of force in labor disputes. Consequently, when the Labor Board was created the idea was not to clothe it with any coercive or compulsory authority of any kind, but to clothe it with the power to elicit facts relating to labor controversies, so that the American public could judge for itself who was at fault; whether the railway executives or the railway workers.

Mr. WATSON. The Senator knows just as well as he is alive that that is just what the emergency board provided in this bill will be able to do.

Mr. BRUCE. I do not; and I am going to offer an amendment to that part of the House bill. I am also going to offer some other amendments which I conceive to be in the interest of the public. The emergency board is clothed with no power whatever to issue a simple subpœna or a subpœna duces tecum. It is clothed with no sort of adequate authority for the purpose of eliciting facts with reference to labor controversies.

Mr. WATSON. A board of arbitration is provided for, as the Senator knows.

Mr. BRUCE. There is no provision whatever for any impartial board of arbitration. The board of arbitration under that bill is simply a continuation of the present board of adjustment.

Mr. WATSON. Not at all.

Mr. BRUCE. I do not want to be misunderstood. If this bill were properly amended, I might feel that it was my duty to vote for it. The fact that it has obtained the assent of a certain number of railway executives, and the fact that it has obtained the assent of a large number of railway workers, is a strong point in its favor, but, in my humble judgment, before the bill should be accepted it should be amended, and I am going to do everything in my power to secure its amendment.

Mr. WATSON. And I am going to do everything in my power to prevent its amendment.

Mr. CURTIS. Mr. President, the Senator made a statement in regard to the labor organizations holding out against the Railway Labor Board. I have received information—I have not had time to verify it—that only one organization, the engineers, have held out against the Labor Board.

Mr. WATSON. I did not say that.

Mr. CURTIS. I say I have information that only yesterday one of the organizations of railway employees appeared before the Labor Board.

Mr. WATSON. I did not say that.

Mr. CURTIS. The Senator said that the railroad organizations were refusing to recognize the board.

Mr. WATSON. Their representatives have come before our committee and said they never again intended to recognize it or appeal to it.

Mr. CURTIS. Yet, only yesterday one of those organizations appeared before the board.

Mr. WATSON. It may have appeared before the board in regard to some little grievance or other, but not as to any fundamental question involving wages, hours of labor, service, or working conditions, which are the serious, far-reaching disputes that cause all the trouble in the country.

The Labor Board is authorized by the act of 1920 to act in all disputes in respect to the wages or salaries of employees and subordinate officials of carriers not decided by agreement or by an adjustment board. It is quite true that it is provided that in any such decision at least one of the representatives of the public must concur before the decision shall be binding; but of what value is that if the decision can not be enforced?

It may assume jurisdiction of a question when asked so to do by the chief executive of a railroad or the chief executive of a labor organization whose members are directly interested in the dispute; but most of these various organizations have determined, as I have repeatedly said, that they will no longer appeal to the Labor Board, and, therefore, how is a dispute to get before it? The Railroad Labor Board was organized to settle disputes. If there be agreement, there is no dispute, and so the board does not act on the case.

Mr. BRUCE. Mr. President, may I interrupt the Senator again for just a moment?

Mr. WATSON. Certainly.

Mr. BRUCE. As I understand, only three railroad companies in the country have refused to go before the Labor Board; that is to say, the Chicago & Alton, the Erie Railroad, and the Pennsylvania Railroad. I may be wrong, but that is my information.

Mr. WATSON. I will say to the Senator that his information is decidedly erroneous. If the Senator heard the testimony of these men in the committee he will remember that they squarely said to us that they would not appeal to the board any more.

Mr. BRUCE. I am speaking about what has been done; not what the railway executives say they will do, but what they have actually done.

Mr. WATSON. I just cited two cases to the Senator.

Mr. BRUCE. That is my information. If I am laboring under misinformation, I hope the misinformation will be corrected, but I make the statement that, so far as I know, only three railroad companies have refused to go before that board, the Pennsylvania Railroad, the Chicago & Alton, and the Erie. Has the Senator any specific information to the contrary? Can he name any other railroad company that has refused to go before the board?

Mr. WATSON. I have just cited, but the Senator does not pay attention to what I say, two cases; one was the New York Central, and the other was the Southern Pacific. Both of them I cited to the Senator just a moment ago. I did not bring a reference to other instances with me, but they are decisive of the proposition I was discussing. The New York Central people got together and said that they would not go to the Labor Board and would pay no attention to it.

Mr. BRUCE. Did the New York Central refuse specifically to accept the jurisdiction of the Railroad Labor Board?

Mr. WATSON. Certainly they refused.

Mr. BRUCE. I was not aware of that fact.

Mr. WATSON. I am telling the Senator of it now, and I hope to tell the Senator a great many things of which he is not aware.

Mr. BRUCE. I am glad to receive information, even from a source of such doubtful authority as the Senator from Indiana.

Mr. WATSON. I thank the Senator. I cited also to my good friend from Maryland the case of the Southern Pacific. Did the Senator hear me refer to that?

Mr. BRUCE. I did not.

Mr. WATSON. Well, I will not go over it again; I will tell the Senator about it privately.

Again, upon the Labor Board's own motion it may thrust itself into a dispute, if it is of the opinion that it is likely substantially to interrupt commerce; but of what avail is such action if it is entirely without authority to settle the dispute? Neither side is bound by the decision, even where the representative of the public concurs, because no authority is vested in the board to enforce its decrees.

Let it be assumed that the employees of any carrier make a demand for an increase of wages; that it can not be settled between the parties or by an adjustment board or by mediation, and that an appeal is made by either party to the Labor Board, that a hearing is had and a decision reached. Let us assume that the decision is against the railroad company ordering it to pay the extra wage; the company is under no legal obligation whatever to obey the order and to increase the wage. Nor would the situation be altered if neither party appealed to the board and it thrust itself into the controversy on its own motion. Authority is in no way vested in the board to enforce its decision, and that leaves it but a "dead end" only.

Mr. BRUCE. It never was intended to have any compulsory authority.

Mr. REED of Missouri. Where is the authority in the bill under discussion to enforce any decision?

Mr. WATSON. There is no authority to enforce it.

Mr. REED of Missouri. Then, what the Senator claims is a defect in the old law exists in the pending bill, by his own confession.

Mr. WATSON. I decline to be a party to put force in a board or to resort to compulsion to settle these controversies at the present time. If we set up this machinery and it fails to prevent strikes, if it shall fail in the effort to preserve harmony between the management and employees of the railroads, then the time may come when we shall be compelled to resort to force; but I want to go to the last extreme of conciliation and mediation before we resort to that last thing in our American civilization.

Mr. REED of Missouri. I am very much in agreement with the Senator about that. The point I am asking about is this: The Senator states the present law is ineffective because nobody is compelled to submit his dispute and nobody is compelled to obey the decisions of the board.

Mr. WATSON. Does the Senator deny that?

Mr. REED of Missouri. No; and that is exactly the condition in which you leave us with your proposed measure.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. WATSON. No, no; let me go a little further.

Mr. REED of Missouri. There is no power to compel obedience, and there is no authority to compel a submission to jurisdiction in the first instance, and the Senator has just said that he is opposed to any kind of force.

Mr. WATSON. I am. Does the Senator want to embody force in this bill?

Mr. WALSH. Mr. President, I have no doubt that if the Senator from Indiana were allowed to proceed he would tell us how the proposed law is better than the one we have.

Mr. WATSON. That is what I want to try to do by and by. I thank the Senator.

Section 313 of the act of 1920 specifically provides as follows:

> The Labor Board, in case it has reason to believe that any decision of the Labor Board * * * is violated by any carrier or employee * * * may upon its own motion, after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred.

And then what? What remedy is provided? What power is put in its hands? What force is lodged in it? What can it do? The section answers this question by saying that the Labor Board under such conditions shall—

> make public its decision in such manner as it may determine.

That is its force, and that is its authority, and that is its power. Does the Senator deny that? How, then, is the public protected by such a measure more effectually than it would be protected by the provisions of the pending measure, which provides first for the board of adjustment as the present law does; which provides for this board of mediation, consisting of five persons; which provides that after they have endeavored by conciliation to induce the parties to settle in a spirit of amity and comity, and have failed, they shall then do their utmost to bring about arbitration; and if arbitration shall come, the board of arbitration shall be clothed with all the power with which boards of arbitration usually are clothed; the power that my friend says ought to be lodged somewhere; the power to send for witnesses and papers and make a complete investigation of the whole situation. Then, if all of these steps shall prove utterly futile, the board of mediation shall so notify the President of the United States; and if, in the opinion of the President, commerce is seriously threatened or the transportation system is likely to be seriously interrupted, then what happens? Then the President may appoint an emergency board of as many members as he may deem wise to appoint, as many as he thinks essential, to investigate the situation, and for 60 days the status quo shall be preserved; no strikes shall happen; no lockout shall occur; no trains shall stop. This period of repose for 60 days, this cooling-off time, will give the public full knowledge of the situation. That is what the Senator wants, and that is what I want, and that is all the power than can be lodged in any board unless we embody force in the bill. Is not that true?

Mr. BRUCE. Mr. President, not at all. The point I make is that the emergency board is not clothed by the provisions of this bill with the power to summon any witnesses before it, or to act in any way, to take any testimony in relation to the pending dispute.

Mr. WATSON. That is all true.

Mr. BRUCE. It is an impotent emergency board with no real power of any sort.

Mr. WATSON. Let me ask the Senator this question, however, in all fairness and in all candor:

Suppose there is a great railroad strike in the country that seriously threatens the peace of the Nation, that ties up interstate commerce, and is likely to freeze and starve a great many people; and suppose this board of mediation, which is a permanent board, undertakes to bring the parties together: Does the Senator say that they will refuse to come? Does the Senator say that they will decline to arbitrate? Can the Senator say that in this day and age of reason, and of peace, and of the force of public thought and opinion, either side could decline to arbitrate? Certainly not.

Mr. BRUCE. Mr. President, I do. That is exactly what the workers refused to do when the Adamson law was under consideration. Did they not refuse then to submit their dispute to arbitration? Did not the miners in Pennsylvania only a few weeks ago refuse to submit their dispute to arbitration?

Mr. WATSON. Did not both sides refuse, so far as that is concerned?

Mr. BRUCE. Oh, yes. I am not holding any brief for any railway executives or any railway companies that they represent.

Mr. WATSON. Neither am I.

Mr. BRUCE. I am holding a brief for the people of the United States, so far as in my humble capacity as an individual Member of the Senate I am authorized to say that much of myself.

Mr. WATSON. That is fine; but I claim that nobody, under those conditions, would refuse to arbitrate.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. WATSON. Yes.

Mr. COUZENS. I think there is some confusion. There is nothing in section 10, dealing with the emergency board, which provides arbitration.

Mr. WATSON. Oh, no.

Mr. COUZENS. The Senator from Maryland and the Senator from Indiana keep referring to arbitration after the matter reaches the stage covered by section 10, dealing with the emergency board.

Mr. WATSON. Oh, no; not at all. The Senator misunderstood me.

Mr. COUZENS. That is what the Senator from Maryland said. He referred to a refusal to arbitrate. The question the Senator raised was that the emergency board provided by section 10 had no authority to bring in witnesses.

Mr. WATSON. It has not.

Mr. COUZENS. That is true; but it was perfectly clearly pointed out that when the controversy reached that stage either side refusing to come before the emergency board would be placed in a very unenviable position.

Mr. WATSON. Here is the point about it: I claim that arbitration will come, and the whole thing will be investigated, and all of its recesses explored, and all of the evidence brought to the surface. Then we come to the emergency board. Does anybody pretend to say that each side would not with all speed hasten to the emergency board to disclose its evidence, to put forward its side of the controversy?

Mr. BRUCE. Mr. President, again I ask, did they at the time of the controversy which resulted in the enactment of the Adamson law? Did the parties speed to the White House to obey the injunctions of the President of the United States himself?

Mr. WATSON. Why, yes.

Mr. BRUCE. Were they even disposed to wait for the decision of the Supreme Court of the United States? Now, I am not using any incriminatory language. I have no disposition to reflect at all on either of the parties; but we must look facts in the face. We must bear in mind that when an acute labor controversy, a protracted labor controversy is under way, men lose their heads; railway executives lose their heads; railway workers lose their heads; and precedents, I say, are not wanting in which even the authority of the President of the United States and the authority of the Supreme Court of the United States have not been regarded with the degree of deference with which they should have been regarded.

Mr. WATSON. We all understand that to be true.

Mr. BRUCE. We are not legislating for ordinary peaceful times, when the halcyon is brooding over the sea, and its face is perfectly smooth. We are attempting to legislate for times of stress and trouble and conflict and passionate resentment.

Mr. WATSON. I agree to that. The Senator and I are not in any controversy on that proposition.

In the case of Pennsylvania Railroad Co. *v.* United States Railroad Labor Board, decided in October, 1922, the Supreme Court, speaking through Chief Justice Taft, thus defined the final authority of the Railroad Labor Board:

> The decisions of the Labor Board are not to be enforced by process. The only sanction of its decision is to be the force of public opinion invoked by the fairness of a full hearing, the intrinsic justice of the conclusion, strengthened by the official prestige of the board, and the full publication of the violation of such decision by any party to the proceeding. The evident thought of Congress in these provisions is that the economic interest of every member of the public in the undisturbed flow of interstate commerce, and the acute inconvenience to which all must be subjected by an interruption caused by a serious and widespread labor dispute, fastens public attention closely on all the circumstances of the controversy and arouses public criticism of the side thought to be at fault. The function of the Labor Board is to direct that public criticism against the party who, it thinks, justly deserves it.

Which is just the function of the emergency board provided for in this bill.

Further on in the same case, the court emphatically says:

> The jurisdiction of the board to direct the parties to do what it deems they should do is not to be limited by their constitutional or legal right to refuse to do it. Under the act there is no constraint upon them to do what the board decides they should do except the moral constraint, already mentioned, of publication of its decision.

Again, at the October term, 1924, speaking on the same point in another case, Chief Justice Taft emphatically limited the powers and defined the authority of the Labor Board in the following language:

> But when the other sections of the title are taken as a whole they may be searched through in vain to find any indication in the mind of Congress or any intimation that the disputants in the controversies to be anticipated were in any way to be forced into compliance with the statute or with the judgments pronounced by the Labor Board, except through the effect of adverse public opinion.

Mr. BRUCE. Mr. President, may I ask the Senator whether that comes to anything, except saying that Congress expected that the railway executives of this country and the railway workers of this country would have enough respect for the Government of the United States to appear before a board created by Congress when cited to appear before it?

Mr. WATSON. I am not going off into the high altitudes of ethical problems and settle them here as to what a railroad manager or a railroad worker ought to do or ought not to do. I am talking about the plain, practical proposition of what he does do. He is not going and he says he does not intend to go to the existing board; and if he does not go you have a dead proposition. Do you want something to put in its place? That is all there is to it.

In the light of the statute creating the board and in the added light thrown upon its power by these decisions how can it be said that the general public is protected by the provisions of the act of 1920 to a greater extent than it will be under the provisions of this bill? Both are voluntary. Neither is compulsory. Both depend upon public opinion specifically focused upon the point in controversy.

Neither confers more power upon any board than the other, and neither gives authority to enforce its decrees or to execute its judgments by legal process. But the one has failed. The other is yet to be tried. The one they say they will not appeal to. The other is their voluntary creation, and in good faith and in all sincerity they assert that they will appeal to it, and they will abide by its decision. That is the difference between the dead and the living.

Mr. BRUCE. Mr. President, the moment the Senator is in the slightest degree disinclined to permit my interruptions I want him to say so, and I will take my seat.

Mr. WATSON. I am delighted to yield to the Senator.

Mr. BRUCE. I am very much gratified to say that the Senator always seems to be peculiarly indulgent with me; but now I want to ask the Senator whether it is not true that there was also a board of mediation provided by the act of 1888, to which the Senator has referred?

Mr. WATSON. Yes.

Mr. BRUCE. And by the Erdman Act?

Mr. WATSON. Yes.

Mr. BRUCE. And by the Newlands Act?

Mr. WATSON. Yes.

Mr. BRUCE. Why is it that those boards of mediation are all being abandoned for a new board of mediation, which, so far as we know, will be able to exercise no more salutary authority than was exercised by those boards?

Mr. WATSON. The trouble about the Senator's inquiry is that in order to answer it I should have to go over again the same thing that I have been over before, and the Senator did not hear me.

Mr. BRUCE. That was so interesting that it will stand repetition.

Mr. WATSON. No; because I want to quit by sundown.

The act of 1888 provided for compulsory investigation. That was the period in railroad management when the managers were saying "The public be damned," that they had a right to run their own railroads in their own way, and they declined to appeal to any board. The representatives of labor were fearful that if they appealed to the board the managements would put something over on them; and for 10 years there was not a case referred to the board, although the Debs strike occurred at that time. Then came the Erdman Act.

Mr. BRUCE. When the Debs strike took place, that was the time when the workers said "The public be damned."

Mr. WATSON. Well, we are not getting anywhere by referring to that. I can not go back and argue the old Debs case over. The truth about it is that the board undertook to intervene, and no attention whatever was paid to it in the Debs strike; but I do not want to go into those details.

Then came the Erdman Act; and, as I stated a while ago, 61 cases were settled amicably under its provisions. It referred only to wages and labor conditions and hours of service, that is all; in other words, the drastic things over which strikes occur. Sixty-one cases were settled amicably. For some reason or other—and I can tell the Senator what I think the reason was, if he wants to know it—they provided that for three months after a decision the status quo should be maintained, and neither side would agree to that. So the Erdman Act gave way to the Newlands Act.

Mr. BRUCE. The Senator knows that thousands and thousands of cases have been settled amicably by the present Railroad Labor Board.

Mr. WATSON. When the Senator says thousands and thousands of cases, that means the petty cases. If a railroad appealed, and a hundred men were involved, they counted that a hundred cases.

Mr. BRUCE. Some important wage disputes have been settled by it too, have they not?

Mr. WATSON. Yes; but will not be in the future.

Mr. BRUCE. As long as wages were increased, nobody objected to the authority of the Railroad Labor Board. It was only when wages were diminished that the agitation against it began.

Mr. WATSON. Senators talk about protecting the public. Within four months after that board was formed and sat it increased wages $600,000,000. Was that protecting the public?

Mr. BRUCE. Yes; it was. As I understand it, the workers were justly entitled to the increases at that time.

Mr. WATSON. The Senator is saying that the public is protected only when wages are decreased. I am saying that the public is protected when the wages are increased quite as much.

Mr. BRUCE. With due deference to the Senator, I said nothing of the sort. I have always thought that increases of wages made with the approval of the Railroad Labor Board were eminently just increases of wages, to which the railroad workers were in every respect entitled.

Mr. WATSON. I will say to my good friend that when we passed the Esch-Cummins Act, the railway management of the whole country was against it. They came here in unlimited numbers and opposed it, and all of labor was for it, and they were here demanding that it be passed.

Mr. BRUCE. I am not speaking of what the railway executives thought about that act. I am speaking about what the general public, the final court of appeals under our institutions, thought of it. I have never heard any disinterested citizen of the United States finding fault with the increases of wages approved by the Railroad Labor Board after the World War.

Mr. WATSON. I do not know that there was any fault finding about it. I am not talking about that. But I understood the Senator to say that because the board increased wages they were not protecting the public. If he did not say that, then I was mistaken.

Mr. BRUCE. Indeed, I did not. What I said was that this general disaffection in relation to the Railroad Labor Board did not spring up until the Railroad Labor Board adopted an order diminishing the wages of the railroad workers.

Mr. WATSON. I am not going into any keen analysis of that situation. I am not going to diagnose the disease of which the thing died. All I say is that it is functus officio. All I say is that it can no longer function. I do not care what the operating causes were; I do not care what produced it. I speak of the condition, and it is a condition I want to meet. Does the Senator dispute the condition?

Mr. BRUCE. Does the Senator think he can apply a safe cure if he does not even make a diagnosis?

Mr. WATSON. I know what the diagnosis is—that it can no longer operate, and is no longer useful. That is all the diagnosis I need.

The Labor Board has broken down. Neither side will appeal to it to settle disputes. If upon its own initiative it assumes jurisdiction of a case, it has no authority to enforce its decision. Its authority is nowhere recognized. Neither side can be compelled to obey its mandate, and therefore it is evident that something must be substituted for it, or else chaos will result.

That is all there is to this. The two sides come to Congress in all good faith and in all sincerity. I want to say that I was never interested in anything in my whole public life more than in the kindly spirit of cooperation that prevailed among those people.

When they appeared they came to say that in good faith and in all genuineness and in all sincerity they wanted this machinery set up, and that they would in all good conscience obey its mandates in the days to come. They are all here asking it—the railroads and 2,000,000 of the employees. Why should we not, in this modern-day spirit, yield to them and at least give them an opportunity to set up the machinery they want to set up, by which they say in all good faith they will settle their disputes in the days to come? They want understandings, not misunderstandings. Mr. Richberg, the very able attorney, said before the committee:

> We do not want strikes. We want peace. We have the equivalent of a 6 per cent investment on $40,000,000,000 every year for our wages. Why should we want to overturn a situation of that kind? Disputes must need come, because men are human. When they come we want some place to which we can go mutually to settle, in a kindly way and in the spirit of our civilization, such disputes as arise.

Is there anything wrong about that? If this shall fail after it be set up, then I will take my friend from Maryland by the hand, and my other friend, the Senator from Kansas, and go whither evidently they want to go—that is, to the application of compulsion in the settlement of these disputes.

Mr. CURTIS. The Senator should not say that, because the Senator from Kansas took no such position. The Senator from Kansas said all he desired was a board like the Interstate Commerce Commission, with authority to investigate any agreements that might be made, and if they were against public policy that the agreements should be set aside. That is what the Senator from Kansas said. That is not force.

Mr. WATSON. Mr. President——

Mr. BRUCE. Mr. President, it is only fair to me that I should be allowed the same opportunity to reply that the Senator has afforded the Senator from Kansas. I have never suggested the application of force. I am opposed to the application of force in labor disputes so long as labor disputes do not arrive at the point of actual lawlessness or bloodshed, strongly opposed to it.

Mr. WATSON. Just a few moments ago, when my friend became somewhat hectic, he said, "I have never been in favor of force in the settlement of these cases, but that time may come."

Mr. BRUCE. A moment ago the Senator indicated that he thought that the time might come, and said that if that time ever came he would be prepared to use force.

Mr. WATSON. Absolutely. I sat at the table in the room of the Interstate Commerce Committee and tried by might and main to have teeth put into the Esch-Cummins law. But the House would have none of it. The House had passed that bill by an almost unanimous vote and this machinery was set up, and we can not go to force until it shall have been demonstrated beyond a peradventure of doubt that these disputes can not be settled by modern methods.

Mr. BRUCE. I do not want any application of force in labor disputes, except that application which, of course, is warranted already by the general laws of the land. But should a time come in the history of disputes between employees and employers like that which has just come in England, when the government of the country and its civil liberties are at stake, then I shall unhesitatingly, fearlessly, advocate the application of force to the fullest limit.

Mr. WATSON. The Senator and I agree about that. But that time has not come. The Senator says it has not come.

Mr. BRUCE. It has not, because our workers have been too intelligent, too enlightened, too patriotic, to precipitate any such crisis as that.

Mr. WATSON. Precisely; I agree.

Mr. FESS. Mr. President, will the Senator yield?

Mr. WATSON. I yield.

Mr. FESS. Was it not the consensus of opinion of both parties represented before the committee that if this law failed there would not be anything short of compulsory arbitration?

Mr. WATSON. That is true, and I was looking for the language. I have misplaced it.

I come now to the matter about which my friend from Kansas interrogated me, if I may have his attention; and if I misquoted the Senator a while ago, I beg his pardon. I certainly had no such thought or intention.

What he proposes is that the Interstate Commerce Commission shall be clothed with power to set aside any wage increase which, in the opinion of the Interstate Commerce Commission, may advance rates. Am I right?

Mr. CURTIS. Which it thinks may advance rates to such an extent as to be against the public interest. I can realize that wages ought to be increased sometimes, and I can also realize that the employers and employees might enter into an agreement whereby the increase of wages would be so high, or the agreement would be in such terms, as to be against the public interest.

Mr. WATSON. Let me discuss that. There is a joint statement, issued by the American Farm Bureau Federation under date of February 21, this year, in which it is stated:

> Under the present law the Railroad Labor Board can not make a wage award without the approval of one of the representatives of the public on the board.

Listen to this:

> If the railroad managers and their employees make an agreement about wages, the board can suspend the agreement until it finds out what effect it will have upon railroad rates. This is a clear-cut, definite protection which Congress gave six years ago to prevent new and excessive burdens being put upon railroad service.

There never was a more erroneous conception of the law. "If the railroad managers and their employees make an agreement about wages the board can suspend the agreement." Mr. President and Senators, if the railroad managers and their workers agree, the board never has an opportunity to test the case at all or have anything to do with it.

Mr. CURTIS. The Senator is not fair in comparing the Railroad Labor Board with the Interstate Commerce Commission.

Mr. WATSON. I am coming to that.

Mr. CURTIS. It is not likely that the railroads and their employees would go against an order of the Interstate Commerce Commission, because the railroads would know that the increased rates they desired would not be granted.

Mr. WATSON. I am coming to that in a moment. This is only preliminary. I am going to discuss the Senator's problem. He need not be afraid I am getting away from it.

In other words, as I have said several times, if there be no dispute, there is never anything to go to the Railroad Labor Board. It was set up to try to adjust disputes, not agreements. It has no power to overturn a wage agreement between management and employees. That is a voluntary contract, and under the decisions of the Supreme Court voluntary transactions may not be interfered with.

> It is equally true—

Said Justice White in the Adamson case—

> that as the right to fix by agreement between the carrier and its employees a standard of wages to control their relations is primarily private, the establishment and giving effect to such agreed-on standard is not subject to be controlled or prevented by any public authority.

That is the whole thing. Therefore, if there be an agreement on wages, there is no appeal to the Railroad Labor Board, and the Railroad Labor Board has no place in the controversy if there is no dispute.

Again:

> Included in the right of personal liberty and the right of private property—partaking of the nature of each—is the right to make contracts for the acquisition of property. Chief among such contracts is that of personal employment, by which labor and other services are exchanged for money or other forms of property. If this right be struck down or arbitrarily interfered with, there is a substantial impairment of liberty in the long-established constitutional sense. The right is as essential to the laborer as to the capitalist, to the poor as to the rich, for the vast majority of persons have no other honest way to begin to acquire property save by working for money.

That is from the decision in Coppage *v.* Kansas (236 U. S. 14).

The following quotation is from a very recent case decided by the Supreme Court in the Minimum Wage cases.

Mr. BRUCE. What volume is that?

Mr. WATSON. Two hundred and sixty-first United States Reports, 525.

> That the right to contract about one's affairs is a part of the liberty of the individual protected by this clause [fifth amendment] is settled by the decisions of this court and is no longer open to question.

Then many cases are cited.

> Within this liberty are contracts of employment of labor. In making contracts, generally speaking, the parties have an equal right to obtain from each other the best terms they can as the result of private bargaining.

Therefore, unless there is a dispute, it is unconstitutional for any board to attempt to interfere. If there be an agreement and the railroad company and its operatives agree on

wages, the Interstate Commerce Commission has no power to interfere with that private contract.

Mr. BRUCE. Mr. President——

Mr. WATSON. Wait a moment. I am coming to the other side of it. I know what is in the Senator's mind. I have got so I can read it.

If there is no dispute, how does the Railroad Labor Board get into it? Listen to this extract from the Esch-Cummins Act:

SEC. 307. The Railroad Labor Board shall hear and as soon as practicable and with due diligence decide—

What?

any dispute involving grievances, rules, or working conditions. In case the appropriate adjustment board is not organized under the provisions of section 302, the Labor Board (1) upon the application of the chief executive of any carrier, (2) upon a written petition signed by not less than 100 unorganized employees, (3) upon the Labor Board's own motion, if it is of the opinion that the dispute is likely substantially to interrupt commerce, etc.

There must be a dispute. If there be no dispute and there is a perfect agreement as to wages, no one can interfere. Does the Senator dispute that fundamental proposition?

Listen again:

(b) The Labor Board (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Labor Board's own motion, if it is of the opinion that the dispute is likely to produce certain results.

So that if there be a dispute there would be some justification for appealing to the Railroad Labor Board. If there be no dispute and there is perfect agreement about it, the Railroad Labor Board has no power to interfere and the Interstate Commerce Commission, if it did interfere, would be violating the Constitution of the United States.

Mr. BRUCE. Mr. President, will the Senator yield?

Mr. WATSON. Certainly.

Mr. BRUCE. But the Senator from Indiana knows that even if an amicable settlement be arrived at between the railroad company and its employees in the case of any dispute with regard to wages, the Interstate Commerce Commission would have the right of its own initiative to take cognizance of that increase in wages and to duly take account of it in fixing rates.

Mr. WATSON. Which is entirely correct, and therefore the amendment of the Senator from Kansas would not only give the Interstate Commerce Commission no additional power, but on the other hand would involve it in every wage controversy and ultimately break it down and destroy its usefulness, just as wage controversies destroyed the usefulness of the Railroad Labor Board.

It is proposed to amend the bill by conferring upon the Interstate Commerce Commission the power to hear any award or agreement respecting wages and as soon as practicable either to affirm or modify its terms and provisions. I am opposed to the amendment.

In the first place, it will directly involve the Interstate Commerce Commission in all the fierce, sometimes tumultuous, controversies arising out of labor disputes. Those have been sufficient at least to aid in breaking down the Railroad Labor Board. We should not add to the enormous burdens already borne by the commission by forcing it to take up and settle every wage dispute that may arise on the transportation system of the country. Undoubtedly one or two adverse decisions by the commission would concentrate upon it criticisms that would weaken it and eventually, in my judgment at least, impair its usefulness. It can not be doubted that if the commission has final authority to settle all wage disputes it will be to a greater or less extent thrust into politics and the appointments upon it will be subject largely to political considerations. Thoughtful people fear that if the commission ever becomes involved in these controversial questions its prestige will first be impaired and its usefulness afterwards destroyed.

As was pointed out in the debates in the House, and this is very forcefully and very cogently put—

If the purpose be to make certain that any increase in a scale of wages would be reflected in increased rates, nothing could be devised which so certainly as the above-mentioned amendment would have that effect.

Will the Senator from Kansas listen to me a little while? I do not want to interfere with the private conversation he is having with the Senator from Michigan [Mr. COUZENS], but I am addressing myself to the amendment proposed by the Senator from Kansas.

Mr. CURTIS. I will listen to the Senator. I might say that the Senator from Michigan was helping the Senator from Indiana.

Mr. WATSON. I very greatly appreciate the valuable assistance of the Senator from Michigan, who heard all the testimony and who, I am very happy to say, is in cordial sympathy with the provisions of the bill and no doubt could argue it much more forcefully and intelligently than the present speaker.

The gentleman in the House said this:

If the purpose be to make certain that any increase in the scale of wages will be reflected in increased rates, nothing could be devised which so certainly as the above-mentioned proposal would have that effect. In practical results, whenever there is an increase in the wage schedule, if the foregoing provision were in the law, the commission must either at once suspend it, or, by its failure or refusal to do so, give it by implication its approval. The reluctance of the commission to suspend a wage increase would, because of obvious considerations, be very great, and in most cases the increases would be left unsuspended. In that event the commission could find no excuse for not increasing the rates to meet an expense which it had thus impliedly approved. The users of transportation, including the agricultural users, can not contemplate such a result with any degree of satisfaction.

Mr. CURTIS. That is an unfair reflection upon the Interstate Commerce Commission. It is not reasonable to suppose that if the commission would happen to overlook the fact that an increase or agreement made by the roads and their employees for an increase would be against public interest, that they would not have the power, that they would not have the nerve, if it may be stated that strongly, when the matter was brought to their attention, to act, and to act properly. I will never believe that any Interstate Commerce Commission would do otherwise, no matter who the gentleman was that made the speech in the other body.

Mr. WATSON. I am sponsoring what the gentleman said in the other House.

Mr. CURTIS. I will not take it even from the Senator from Indiana.

Mr. WATSON. I am grieved at that.

Mr. CURTIS. I knew the Senator would be.

Mr. WATSON. I commend to the manufacturing and agricultural interests, whose fears seem to have been aroused by the passage of this bill, that a far greater protection is provided for them by that section of it which provides that a wage award shall not be construed to diminish or extinguish any of the powers or duties of the Interstate Commerce Commission under the interstate commerce act, which means, as applied to this measure, that none of its powers to determine an increase of wages or award of wages shall either be diminished or altogether subverted.

Mr. CURTIS. Mr. President, the Senator does not seriously submit that as an argument, does he? Does not the Senator know that there is nothing in the bill taking away power from the Interstate Commerce Commission, and that the amendment was simply offered in the House to get rid of an amendment that was offered by another Member of the House of Representatives.

Mr. WATSON. But it is still here. It is still with us.

Mr. CURTIS. Certainly; and it is of no use on earth.

Mr. WATSON. I am arguing that the power still abides in the commission, and I make that statement as the first step in the argument which I now take up.

As far back as 1911 Mr. Commissioner Prouty, in the Eastern Rate case (20 I. C. C. p. 278) expressly laid down the rule:

This commission certainly could not permit the charging of rates for the purpose of enabling railroads to pay their laborers extravagant compensation as measured by the general average compensation paid labor in this country as a whole.

The syllabus of that case reads as follows:

Before any general advance in rates can be permitted, it must appear with reasonable certainty that carriers have exercised proper economy in the purchase of their supplies, in the payment of their wages, and in the general conduct of their business.

That already is their duty. That already is their power. At the same time they are not involved in all wage-increase disputes which would be sent ultimately to them and never decided until they got to them.

This was before the passage of the transportation act of 1920 and, if that was then the rule by which the commission

was governed, under how much greater obligations they are now to look to wage increases in exercising their powers to make rates. As amended, that act squarely provides that—

In the exercise of its power to prescribe just and reasonable rates, the commission shall initiate, modify, establish, or adjust such rates so that the carriers as a whole * * * will, under honest, efficient, and economical management, earn a fair return.

How can the commission discharge its obligation to see that the railroads are economically managed if undue wage increases are permitted?

On the 19th of last month, in testifying before the Interstate Commerce Committee of the Senate, I asked Commissioner Cox this question:

How far does the Interstate Commerce Commission now go, or how far under existing law has it the authority to go, in determining questions of wages on railroads? Suppose that a railroad should agree to raise wages $50,000,000. Do you take anything of that kind into consideration with reference to efficient and economical administration as reflected in rates?

To which he replied:

I think the commission might have a right to take that under consideration in determining what might be a proper rate level, but I do not think that under the law we have any right to suggest to a carrier what they shall pay in wages. If it were clearly shown that the level for that one railroad was in excess of that for other railroads, I think that might be taken into consideration.

There is the answer to the question of my friend, the Senator from Utah [Mr. SMOOT]. Commissioner Eastman then asked permission to express an opinion on that subject, which being granted, he said:

I think if the commission found that the railroads were generally paying to their presidents salaries of $1,000,000 a year, it could take that fact into consideration in determining what rates they should charge. And I think if it were found that they were paying plainly excessive and exorbitant wages to their men, then that fact should be taken into consideration also.

What is the real argument? The commission now deals with the railroads alone. It is their sole duty to determine whether or not rates measure up to the standard fixed by law; that is, to make the earning fixed by law. In doing this they have a right to determine what charges the traffic on any railroad will bear, on the one hand, when the charges become prohibitive and, on the other hand, when they cease to be remunerative. They take the question of wages into consideration only incidentally and are not bound to give it consideration at all, whereas if this amendment were adopted it would be their duty to take into consideration every question of wages that might be thrust upon them, not alone in determining rates, but in determining the merits of a wage award, so that the Interstate Commerce Commission, instead of being a rate fixing commission, would become a wage determining commission, because—listen to me, Senators—if the Interstate Commerce Commission is the final authority, if that body in the last analysis has the right to determine whether wages shall or shall not be increased, no intermediate steps will ever be used, but they will all be cast aside and it will be said, "The Interstate Commerce Commission will fix it anyway." Every wage dispute will then go directly to the Interstate Commerce Commission, and the Interstate Commerce Commission will lose its power of fixing rates and will become the sole authority for determining the merits of all wage increases, in all the wage disputes raised in the United States on the railroads.

If Senators want to destroy the commission, adopt this amendment. No wonder Mr. Commissioner Clark, one of the ablest men that ever sat on that body, cried out in express terms and in no unequivocal voice against permitting the commission to have this power, and he was right.

The adoption of this amendment would bring the commission face to face with all the labor organizations; and their demands for increased wages, if and when made, would thrust upon it entirely new duties and obligations, would place upon it added burdens, and would force it to take into consideration in all rate-making cases wage problems not now considered except as incidental to the general subject.

Under the transportation act of 1920 the commission is bound to see that all expenses are economical and proper, and under the provisions of this bill the commission in passing on rates would deal only with carriers, mark you, and not with employees. They simply determine whether or not the carrier should be allowed to charge greater rates—that is the point—and they take into consideration incidentally the expense of wage increases. That is their right now.

Mr. SMOOT. The Senator's position, then, resolves itself into this: That they have got to make a rate that will take care of the railroad that makes less money from its operations than some other road. There are roads that could operate and make money upon the rates they might fix; but does the Senator mean that hereafter the Interstate Commerce Commission will take into consideration only those roads that can afford to haul the freight for a lower charge?

Mr. WATSON. Oh, no. There can not be any change at all in that.

Mr. SMOOT. If there are two railroads running in the same territory, the rates must be the same from the common starting point to the terminal.

Mr. WATSON. Certainly on all competing lines.

Mr. SMOOT. The Senator knows that in more than one section of the country rates that may be profitable for one railroad will destroy another.

Mr. WATSON. Will my friend let me say right there that Mr. Commissioner Cox, in his answer, stated that he takes that into consideration in determining the rate level in the aggregate, and that is precisely what they do in determining the question of rates.

Mr. SMOOT. If they take the rate level, it is the level between the high and the low, and that may destroy the weaker road.

Mr. WATSON. In that respect it is not proposed to change the power of the Interstate Commerce Commission in this bill at all. Whatever power the commission has now it would have should the provisions of the pending bill become law.

Mr. SMOOT. I am aware of that, with the exception, however, that in this case the prosperous road could have private understandings with its employees and pay them higher wages than would be justified and supported by the Interstate Commerce Commission.

The Senator says that under the existing law the roads can do that; but does the Senator think that the Interstate Commerce Commission would allow that under existing conditions?

Mr. WATSON. No; and I do not think that the Interstate Commerce Commission will allow any extravagant increases in wages anywhere under their present authority. Commissioner Prouty squarely lays down the principle.

Mr. SMOOT. I do not see how they are going to get around it.

Mr. WATSON. Mr. President, this amendment is opposed on principle by a majority of the carriers because they do not approve of involving the Interstate Commerce Commission in these controversies. It is earnestly opposed by the employees on the ground that it destroys the efficiency of the methods of adjustment contained in the bill. Both of them oppose it on the ground that it destroys the efficacy of the methods of adjustment contained in this measure, and its effect would be to destroy the agreement of the parties in respect to the proposed methods of adjustment and to place reliance, not on an agreement, but on the force of the statute, and as they vigorously assert, this would violate the entire spirit of the pending measure.

Let it not be forgotten that every agreement proposed in the pending bill is purely voluntary, that there is neither compulsion nor force involved anywhere in it, because it is believed that all disputes can be amicably adjusted, and that, until it shall have been demonstrated to the entire satisfaction of the American people that conciliation and mediation are not sufficient to prevent disastrous disputes in connection with railroad operation, coercion should not be resorted to in determining these questions. Both management and labor not only understand, but representatives of both have squarely and unequivocally asserted before our committee with every manifestation of sincerity, that, if the method provided in the pending bill shall not succeed, if disputes that threaten to tie up the transportation system of the country and imperil the happiness or the safety of its citizenship shall continue to occur, then they must be settled by methods other than those established or provided in this bill. But they say, in all sincerity, that they want this done. They represent the railroads; they represent the railroad employees; they are in good faith; they do not want strikes; and yet they know that difficulties will arise.

They want something to be set up that will enable them, in a peaceful way, to conciliate their differences, to reconcile the inharmonious sides, and to bring peace to the railroad world. I confidently believe that that will be the result of the enactment of this bill.

Not only that, but I am bold enough to prophesy that if this plan shall be adopted, no railroad labor strike will occur in the United States; I am bold enough to prophesy that no great wage increases will be asked in the United States, because

both sides will know that they are under trial if this bill shall be passed. I am bold enough to say that if this proposed legislation shall succeed, it will become the standard by which similar machinery may be set up in the whole industrial world of America. Who does not wish for that glad day in the settlement of these disputes? So, I think, that when they come carefully to analyze the provisions of this measure Senators will agree with the statement I made at the outset—that this is the very best measure that can possibly be passed at the present time for the preservation of peace on the transportation systems of the country.

Mr. BRUCE. Mr. President, I simply desire to say I do not think this amendment necessary. I do not think this is one of the respects in which the public welfare needs to be safeguarded under the provisions of this bill. I agree with the Senator from Indiana in thinking that the Interstate Commerce Commission would have the power anyhow to take an increase of wages into consideration when determining a rate controversy. At the most, it seems to me that the amendment of the Senator from Kansas is merely a declaratory amendment. It simply gives declaratory effect to an authority with which the Interstate Commerce Commission is already endowed. Therefore, while reserving the right to offer other amendments to this bill which I think are of considerable significance to the public welfare, I personally propose to vote against this amendment.

Mr. CURTIS. Mr. President, I desire to ask the Senator from Indiana if he wishes to proceed further with the bill to-night?

Mr. WATSON. Mr. President, if the Senator from Kansas is willing that the Senate shall adjourn now, I hope he will make such a motion.

Mr. CURTIS. I was going to move that the Senate proceed to the consideration of executive business.

Mr. WATSON. Very well.

MIDDLE JUDICIAL DISTRICT OF GEORGIA

The VICE PRESIDENT laid before the Senate the action of the House of Representatives, disagreeing to the amendment of the Senate to the bill (H. R. 10055) to amend section 77 of the Judicial Code to create a middle district in the State of Georgia, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CUMMINS. I move that the Senate insist upon its amendment, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and Mr. CUMMINS, Mr. BORAH, and Mr. OVERMAN were appointed conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened.

RECESS

Mr. CURTIS. I move that the Senate take a recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 4 o'clock and 28 minutes p. m.) the Senate took a recess until to-morrow, Friday, May 7, 1926, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 6, 1926

POSTMASTERS

ALABAMA

Amos N. Fain, Ariton.
Charlie S. Robbins, Good Water.

CALIFORNIA

Edna J. Keeran, Princeton.
William L. McLaughlin, Sanger.

CONNECTICUT

Oliver M. Bristol, Durham.

IDAHO

Rose J. Hamacher, Spirit Lake.

INDIANA

Josiah J. Hostetler, Shipshewana.

KANSAS

Charles Friskel, Frontenac.
Ella J. Starr, Scott City.

KENTUCKY

Clarence Neighbors, Bowling Green.
Yaman Watkins, Clarkson.
Willie G. Thornbury, Munfordville.
Marvin L. Whitnell, Murray.

LOUISIANA

Albert Boudreaux, Thibodaux.

MICHIGAN

Eugene E. Hubbard, Hudsonville.

MISSISSIPPI

Preston C. Lewis, Aberdeen.

MISSOURI

Ferd D. Lahmeyer, Bland.
Florence Gilkeson, Garden City.
Taylor Fisher, New Franklin.

NEW YORK

John E. Gubb, Batavia.
Clarence F. Dilcher, Elba.
Sylvester P. Shea, Freeport.
Philip I. Brust, Medina.
Earl V. Jenks, Perry.

NORTH CAROLINA

Roger P. Washam, Gastonia.

NORTH DAKOTA

Mary B. Engbrecht, Goldenvalley.

OHIO

Harry E. Hawley, Mansfield.

OKLAHOMA

Bert A. Hawley, Leedey.

PENNSYLVANIA

William E. Vance, Unity.
Ruth Roberts, Vintondale.

UTAH

Claude C. McGee, Lewiston.

WYOMING

Elmer W. Ace, Green River.

HOUSE OF REPRESENTATIVES

THURSDAY, *May 6, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, we bless Thee that we are still within the circle of Thy loving arms, for their protection is sure and their care is infinite. Each day give us courage and endurance and may these virtues make us stronger and nobler men. May Thy greatness flow around our incompleteness. We most humbly ask the forgiveness of our sins. We pray for our families that Thy love and mercy may be their daily portions. In the integrity of soul, in the confidence and calmness of a conquering faith, may our whole Nation continue to set up the banners of the living God. In Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

PRIMARIES AND PROHIBITION

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to speak for one minute.

The SPEAKER. The gentleman from Michigan asks unanimous consent to address the House for one minute. Is there objection?

There was no objection.

Mr. CRAMTON. Mr. Speaker, the beer and wine polls have disappeared from the newspapers and we are now getting returns from the polls taken under authority of law. I read from to-day's Associated Press report of the recent primaries in Indiana as it appears in the Washington Post this morning:

> All senatorial and congressional candidates who hinted at tendencies toward being moist on the liquor question lagged behind in the voting.

[Applause.]

As a matter of fact, I am advised by Indiana Members that the wet and dry issue was most squarely drawn in the fifth or Terre Haute district, where Congressman JOHNSON defeated his wet opponent by 10 to 1, and in the sixth district, where Congressman ELLIOTT defeated by 8 to 1 a woman candidate who advocated modification of the Volstead Act.